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Preparing for a no-deal Brexit

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This briefing outlines some of the potential immediate impacts of a no-deal Brexit along with contingency planning for disruptions that may occur in the immediate days and weeks after EU exit.



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Executive Summary

The current default position under EU law is that the United Kingdom will leave the EU on 31 October 2019 irrespective of whether the EU and the UK have concluded and ratified a Withdrawal Agreement of the terms of withdrawal. Article 50 provides the opportunity for the UK Government to seek a further extension of the period thereby postponing Exit Day. Any request for an extension requires the unanimous agreement of the governments and Heads of State of the other 27 EU members. Extensions have already been requested and granted twice (first to 12 April and then to the current Exit Day of 31 October).

On becoming Prime Minister in July 2019, Boris Johnson indicated that his government's policy was that the UK would leave the EU on 31 October, preferably with a deal, but if necessary without finalising and ratifying the withdrawal agreement.

In the event that the UK leaves the EU in a no-deal scenario, the key impacts will relate to the UK's immediate departure from the Single Market and the Customs Union without any transition or implementation period. As a result of leaving the Single Market and Customs Union, the UK will no longer trade with the EU on the same terms as present. As there would be an absence of any sort of negotiated agreement, trade would instead take place on terms governed by the World Trade Organisation (WTO).

Trading under WTO rules would therefore necessitate customs checks between the UK and EU and the UK's departure from the Single Market would mean it no longer automatically complied with EU rules and standards. This means checks would take place on UK goods being exported to the EU to ensure they meet the EU's standards and regulations. Likewise it's possible the UK Government would require checks on EU imports to the UK to ensure they comply with UK standards.

These potential border checks present the most likely immediate form of disruption following a no-deal Brexit which might result in long queues at the UK-EU borders as goods travel through customs and are subject to standards checks. Potential hold-ups at the border could lead to a disruption in the supply of food and medicines coming into the UK after 31 October 2019.

The UK Government's initial planning and preparations for a no-deal Brexit were coordinated by the Cabinet Office's Civil Contingencies Secretariat (CCS). The CCS began its work in June 2018 giving it the codename Operation Yellowhammer. Operation Yellowhammer identified 12 areas of risk including transport systems; people crossing borders; key goods crossing borders; healthcare services; UK food and water supplies; and law enforcement implications.

The Scottish Government has repeatedly called for the UK Government to "rule out" exiting the EU without a deal. However, it has also indicated that it is planning and preparing for the possibility of a no-deal Brexit. The Scottish Government has existing governance and organisational structures to prepare for, and deal with, emergencies - often referred to as "resilience". The Scottish Government have primarily used these structures to plan for potential disruptions immediately following a no-deal Brexit.

Introduction

The UK Government and Scottish Government are making preparations for the potential disruption that may occur if the UK leaves the EU on 31 October 2019 without agreement on the terms of withdrawal.

This briefing outlines some of the potential immediate impacts of a no-deal Brexit along with contingency planning for disruptions that may occur in the immediate days and weeks after EU exit. The briefing does not cover all eventualities and provides a snapshot covering a number of different policy areas. In addition, it does not address the longer-term impacts or outcomes of a no-deal Brexit. The information is intended to inform parliamentary consideration of the Scottish Government's contingency planning.

What is a 'no-deal Brexit'?

A 'no-deal Brexit' refers to the scenario where the UK exits the European Union (EU) without an agreement in place to:

- facilitate an orderly withdrawal
- define the future UK-EU relationship - for example trading agreements, customs arrangements, information sharing.

The UK and EU's negotiations since 2017 have been conducted under Article 50 of the Treaty on European Union (TEU) and have resulted in a draft [Withdrawal Agreement](#) and [Political Declaration on the future relationship](#). However, both documents have been rejected by the UK Parliament's House of Commons. As a result, no agreement is yet in place to facilitate an orderly withdrawal and as a result, formal negotiations on the future relationship have not begun.

In the absence of a finalised Withdrawal Agreement, the current default legal position under Article 50 TEU is that the UK will leave automatically on 31 October 2019.

The UK's date for leaving the EU under Article 50 has been extended twice. Any further extension would require the UK Government to make a request and unanimous support to be given from the other 27 Member States represented in the European Council.

Does the UK Government support 'no-deal'?

In his first statement to the House of Commons, new UK Prime Minister Boris Johnson indicated his preference to negotiate an agreement with the EU to facilitate an orderly withdrawal:

“ I would prefer us to leave the EU with a deal. I would much prefer it.”

UK Government, 2019¹

But the Prime Minister also indicated that it is UK Government policy to leave the EU on 31 October 2019 whatever the circumstances:

“ I and all ministers in this government are committed to leaving on this date, whatever the circumstances. To do otherwise would cause a catastrophic loss of confidence in our political system.”

UK Government, 2019¹

This political commitment to leave the European Union on the 31 October, alongside the significant disagreements over the provisions in the Withdrawal Agreement between the new UK Government and European Council, appears to have increased the probability of a no-deal Brexit.

What does no-deal look like?

In the event that the UK leaves the EU in a no-deal scenario, the key impacts will relate to the UK's immediate departure from the Single Market and the Customs Union without any transition or implementation period. As a result of leaving the Single Market and Customs Union, the UK will no longer trade with the EU on the same terms as present. As there would be an absence of any sort of negotiated agreement, trade would instead take place on terms governed by the World Trade Organisation (WTO).

WTO rules would probably entail tariffs being applied to UK goods exported to the EU and potentially to EU goods imported to the UK. Whilst it is possible that the UK could choose not to levy tariffs on EU goods, this would collide with the WTO's Most Favoured Nation rules requiring that the UK does not treat any trading partner more favourably than another out-with the finalisation of a free trade agreement.

Trading under WTO rules would therefore necessitate customs checks between the UK and EU and the UK's departure from the Single Market would mean it no longer automatically complied with EU rules and standards. This means checks would take place on UK goods being exported to the EU to ensure they meet the EU's standards and regulations. Likewise it's possible the UK Government would require checks on EU imports to the UK to ensure they comply with UK standards.

These potential border checks present the most likely immediate form of disruption following a no-deal Brexit which might result in long queues at the UK-EU borders as goods travel through customs and are subject to standards checks. Potential hold-ups at the border could lead to a disruption in manufacturing supply chains along with disruption to the supply of food and medicines coming into the UK after 31 October 2019.

However, as the Institute for Government have pointed out, no-one can say with certainty what a no-deal Brexit would mean for the UK as much would depend on the EU's response to such an outcome ² .

EU preparations for no-deal

The EU passed a number of pieces of no-deal related legislation to help reduce the impact of a no-deal Brexit on EU citizens and businesses. The EU has however been clear that the contingency measures are temporary, unilateral and cannot mitigate fully a no-deal Brexit:

“ the EU's contingency measures will not – and cannot – mitigate the overall impact of a "no-deal" scenario, nor do they in any way compensate for the lack of preparedness or replicate the full benefits of EU membership or the favourable terms of any transition period, as provided for in the Withdrawal Agreement. These proposals are temporary in nature, limited in scope and will be adopted unilaterally by the EU. They are not “mini-deals” and have not been negotiated with the UK. ”

European Commission, 2019³

Some of the EU's temporary no-deal contingency regulations are outlined below ³ :

- *Fishing rights and compensation*: these measures provide for compensation for fishermen and operators from EU Members States under the European Maritime and Fisheries Fund for the temporary cessation of fishing activities. It also ensures that the EU is in a position to grant UK vessels access to EU waters until the end of 2019, on the condition that EU vessels are also granted reciprocal access to UK waters
- *Financial services*: temporary, limited measures to ensure that there is no immediate disruption in the central clearing of derivatives, central depositaries services for EU operators currently using UK operators, and for facilitating novation, for a fixed period of 12 months, of certain over-the-counter derivatives contracts, where a contract is transferred from a UK to an EU27 counterparty.
- *Air connectivity and safety*: these two measures will ensure basic air connectivity in order to avoid full interruption of air traffic between the EU and the UK in the event of a “no-deal” scenario.
- *Road connectivity*: allows for the continuation of safe basic road connectivity between the EU and the UK for a limited period of time, provided that the UK gives reciprocal treatment to EU companies and operators.
- *Rail connectivity*: ensures the validity of safety authorisations for certain parts of rail infrastructure for a strictly limited period of three months to allow long-term solutions in line with EU law to be put in place. This is, in particular, related to the Channel Tunnel and will be conditional on the United Kingdom maintaining safety standards identical to EU requirements.
- *Ship inspections*: this aims to ensure legal certainty and secure business continuity in shipping.
- *Re-alignment of the North Sea – Mediterranean Core Network Corridor*: This adds new maritime links between Ireland, France, Belgium and the Netherlands to the core network, and introduces a new funding priority to the Connecting Europe Facility (CEF): adapting transport infrastructure for security and external border check purposes.
- *Climate policy*: this measure ensures that a "no-deal" scenario does not affect the smooth functioning and the environmental integrity of the Emissions Trading System.
- *Erasmus + programme*: students and trainees abroad participating in Erasmus+ at the time of the UK's withdrawal can complete their studies and continue to receive the relevant funding or grants.
- *Social security entitlements*: the entitlements (such as periods of insurance, (self) employment or residence in the United Kingdom before withdrawal) of those people who exercised their right to free movement before the UK's withdrawal are safeguarded.
- *Visa reciprocity* (in the process of final adoption): visa-free travel to the EU for UK nationals if the UK also grants reciprocal and non-discriminatory visa-free travel to all EU citizens.

What might happen after a no-deal Brexit?

SPICe has recently [published a blog](#) examining how negotiation of the UK's future relationship with the EU might be affected if the UK exited the EU without a deal on 31 October.

In the event the UK leaves the EU without concluding a Withdrawal Agreement, the first casualty would be the implementation or transition period. An implementation period would ensure continuity of arrangements after the UK's withdrawal and allow time for the negotiations on the future UK-EU relationship to progress. However, provision for the implementation period forms part of the current Withdrawal Agreement and will only be applied if a Deal is agreed. If the UK leaves in a no-deal scenario, the Withdrawal Agreement would fall and consequently the implementation period included as part of the Agreement would also fall. The absence of such an implementation period would mean that the UK would immediately be treated as a third country operating under WTO rules once it has left the EU. This would mean tariffs would be applied to UK goods entering the EU's single market and all goods would be checked to ensure they complied with EU standards.

The European Commission President Jean-Claude Juncker has suggested that if the UK leaves without finalising a withdrawal agreement, the EU will place conditions on the start of any negotiations about the future EU-UK relationship. These conditions will focus on the three issues which the EU identified as priorities for ensuring the UK's orderly exit and which formed the basis of the Withdrawal Agreement:

- citizens' rights
- financial settlement
- the Irish border.

On 3 April 2019, Jean-Claude Juncker told the European Parliament:

“ No-deal” does not mean no commitments. And these three issues will not go away. They will be a strict condition to rebuild trust and to start talking on the way forward.”

European Commission, 2019⁴

If the EU maintains this position in the coming months, it would mean that a future UK Government seeking to start negotiations on a future trade agreement with the EU would first need to obtain agreement with the EU on the very same conditions that are contained in the current Withdrawal Agreement.

As the UK will no longer be an EU member state, the legal basis set out in Article 50 will have fallen away, and so the EU will need to adopt a different legal framework to agree a new relationship. Negotiating a future trade agreement with the UK as a third-country would likely be more complicated and potentially involve ratification in the parliaments of the EU27 Member States. This would mean that every Member State could amend or veto a proposed agreement². In addition, the opportunity to negotiate any sort of new implementation period will be more challenging given the lack of an obvious legal basis in the EU Treaties.

The challenges that would follow a no-deal Brexit serve to show that if the UK Government chooses to leave the EU on 31 October with no-deal, this does not bring an end to the

Brexit process - quite the opposite. Negotiations from that point would take place with the UK as a third country, on a more complex legal basis with potentially multiple veto points, and not benefiting from the continuity provided for by the implementation period negotiated as part of the Withdrawal Agreement.

UK contingencies in a no-deal Brexit

On 23 August 2018, the UK Government began publishing technical notes on the effects of a no-deal Brexit. These notices were intended to provide guidance to citizens, businesses, public sector bodies and NGOs in the United Kingdom on how to prepare for the possibility of the UK leaving the EU without concluding a Withdrawal Agreement ⁵. The UK Government's guidance which accompanied the publication of the technical notices (updated in December 2018) outlined the UK Government's preparations for a no-deal Brexit ⁶:

“ Over the course of August, September and October 2018, the Government published 106 technical notices to ensure that citizens and businesses have the information to prepare for Brexit. Since the publication of technical notices, we have taken further steps to ensure people and firms are ready, including:”

- Publishing more than 100 pages of guidance for businesses on processes and procedures at the border in a no deal scenario.”
- Contacting 145,000 businesses who trade with the EU, telling them to start getting ready for no deal customs procedures.”
- Advising hundreds of ports, traders, pharmaceutical firms and other organisations that use the border about potential disruption so they can get their supply chains ready.”
- Publishing a paper on citizens' rights, giving people clarity on their future.”

UK Government, 2019⁶

On 20 March 2019, in response to an urgent question on no-deal Brexit preparations, the Parliamentary Under-Secretary of State for Exiting the European Union, Chris Heaton-Harris stated:

“ We have published 450 pieces of no-deal communications since October 2018... We have contacted 150,000 businesses that trade with the EU to help them to get ready for no-deal customs procedures. We have held meetings, briefings and events with stakeholders across the economy, including around 300 engagements in the past month alone. We have responded to stakeholder feedback to make sure that communications are clear by updating approximately 1,300 pieces of gov.uk content based on their input.”

Operation Yellowhammer

The UK Government's initial planning and preparations for a no-deal Brexit were coordinated by the Cabinet Office's Civil Contingencies Secretariat (CCS). The CCS began its work in June 2018 giving it the codename Operation Yellowhammer. According to the National Audit Office, the detail of Operation Yellowhammer:

“ represents short-term activity to mitigate and respond to any significant disruption that might arise from a no deal exit. ”

National Audit Office, 2019⁷

and;

“ unlike other potential civil emergencies, which are typically localised, or single incident events, there is the potential under a no deal exit for many different incidents to occur at the same time, or within short succession, across the UK.”

National Audit Office, 2019⁷

Operation Yellowhammer identified 12 areas of risk:

1. Transport systems
2. People crossing borders
3. Key goods crossing borders
4. Healthcare services
5. UK energy and other critical industries
6. UK food and water supplies
7. UK nationals in the EU
8. Law enforcement implications
9. Banking and finance industry services
10. Northern Ireland
11. Specific risks to Overseas Territories and Crown Dependencies (including Gibraltar)
12. National Security

As well as understanding the major risks, Operation Yellowhammer aimed to

- agree common planning assumptions across government.
- ensure that departments have contingency plans in place.
- put in place a command, control and coordination (C3) structure.

According to the National Audit Office's report, if it comes into effect following a no-deal, Operation Yellowhammer will involve coordinating the activities of a number of public bodies across the UK, potentially including:

- more than 30 central government bodies, including almost all central government departments;
- 42 local resilience forums in England and Wales, and equivalent bodies in Scotland and Northern Ireland, which in turn will coordinate the work of local bodies, including police and local authorities;
- the Scottish and Welsh governments;
- the Northern Ireland Civil Service;

- Crown Dependencies, Overseas Territories (including Gibraltar) and Sovereign Base Areas in Cyprus; and,
- sectors and industries which are impacted.

In April 2019, Operation Yellowhammer was stood down following the European Council's decision to extend the Article 50 period to the end of October ⁸. However, when Boris Johnson became Prime Minister in July, the UK Government's no-deal preparations were once again stepped up. This appears to have included planning related to Operation Yellowhammer.

Preparations under Johnson government

Upon taking over as Prime Minister, Boris Johnson announced that the UK will leave the EU, with or without a deal on 31 October 2019.

The Prime Minister appointed Michael Gove as Chancellor of the Duchy of Lancaster and asked him to take responsibility for preparing the UK to leave the EU on 31 October ⁹. In an article for the *Sunday Times*, published on 28 July 2019, Michael Gove set out the work already completed and still to be done on ensuring the UK was ready to leave the EU, if necessary, without a deal:

“ No deal is now a very real prospect, and we must make sure that we are ready. A lot has already been done. Thanks to hard work by ministers past and present, and outstanding efforts by the civil service, we have made significant progress. We have negotiated trade agreements with partners around the world, worth more than £70bn. We have signed continuity agreements with key allies in order to secure our borders and nuclear defences. We have provided guidance to businesses, redeployed gifted public servants to new frontline roles, developed new IT systems, passed necessary legislation and supported those government departments with the biggest responsibilities in managing this transition with new resources. But there still remains much more to do. Planning for no deal is now this government's No 1 priority — and that is why we have, since Wednesday, been accelerating preparations.”

UK Government, 2019⁹

Michael Gove set out three things that still needed to be done to prepare for a no-deal Brexit:

1. Funding will be made available to prepare for no-deal.
2. Equipping the civil service to ensure it can deliver no-deal.
3. The creation of a new, unified, Whitehall structure to co-ordinate action across departments and accelerate decision-making.

Finally, Michael Gove wrote that the UK Government will:

“ shortly launch one of the biggest peacetime public information campaigns this country has seen, so that citizens, communities and businesses can prepare for what will happen if there is no deal.”

UK Government, 2019⁹

In addition to his responsibilities preparing for Brexit, Michael Gove is also responsible for "overseeing devolution consequences of EU exit" and "overseeing constitutional affairs and maintaining the integrity of the Union" ¹⁰ .

The updated list of Cabinet sub-committees was also published following Boris Johnson's appointment as Prime Minister ¹¹ . Three of the sub-committees relate to Brexit delivery and the future. These sub-committees are:

- EU Exit Strategy.
- EU Exit, Economy and Trade - the Secretary of State for Scotland attends.
- EU Exit Operations - the Secretary of State for Scotland attends.

In correspondence with SPICe, the Scottish Government has confirmed that in the case of the EU Exit Operations Committee, while there is a core group of UK Government Ministers who are members of the Committee, other Ministers, including those from the Devolved Administrations, will be invited to attend as the agenda demands.

Under the previous UK government led by former Prime Minister Theresa May, Ministers from the Devolved Administrations were periodically invited to attend the EU Exit and Trade (Preparedness) Cabinet Sub-Committee meetings by the UK Government when matters relating to devolved interests were to be discussed.

The restart of Operation Yellowhammer

A report published by the *Sunday Times* on 18 August set out in detail some of the work contained in Operation Yellowhammer. It included analysis of the 12 areas of risk. According to the *Sunday Times*, Operation Yellowhammer starts planning from a position of some basic assumptions of the EU's response to the UK leaving without a deal on 31 October. The base scenario stated:

“ When the UK ceases to be a member of the European Union in October 2019, all rights and reciprocal arrangements with the EU end.”

- The UK reverts fully to 'third country' status. The relationship between the UK and the European Union as a whole is unsympathetic, with many member states (under pressure from the European Commission) unwilling to engage bilaterally and implementing protections unilaterally, though some member states may be more understanding.”
- No bilateral deals have been concluded with individual member states, with the exception of the reciprocal agreement on social security co-ordination with the Republic of Ireland. EU citizens living in the UK can retain broadly all rights and status that they were entitled before the UK's exit from the EU, at the point of exit.”
- Public and business readiness for no-deal will remain at a low level, and will decrease to lower levels, because the absence of a clear decision on the form of EU Exit (customs union, no-deal etc) does not provide a concrete situation for third parties to prepare for. Readiness will be further limited by increasing EU Exit fatigue caused by the second extension of article 50.”
- Business readiness will not be uniform - in general large businesses that work across sectors are likely to have better developed counting plans than small and medium-size businesses. Business readiness will be compounded by seasonal effects and factors such as warehouse availability.”
- Private sector companies' behaviour will be governed by commercial considerations, unless they are influenced otherwise.”
- Her Majesty's government will act in accordance with the rule of law, including by identifying the powers it is using to take specific actions.”
- Risks associated with autumn and winter, such as severe weather, flooding and seasonal flu, could exacerbate any effects and stretch the resources of partners and responders.”

The Sunday Times, 2019¹²

In response to the *Sunday Times* article, Michael Gove told the BBC that the Yellowhammer dossier on the impact of a no-deal Brexit outlines "absolutely the worst case", and that the UK Government has taken "significant additional steps" to ensure the UK is prepared to leave on 31 October. ¹³

Scottish Government approach to contingency planning

Ministerial responsibility for the Scottish Government's no-deal preparations lies primarily with the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell.

The Scottish Government has repeatedly called for the UK Government to "rule out" exiting the EU without a deal. However, it has also indicated that it is planning and preparing for the possibility of a no-deal Brexit. In a response to a parliamentary question by Jackie Baillie MSP, the Cabinet Secretary for Government Business and Constitutional Relations stated:

“ As a responsible government, we are continuing to plan and prepare for all EU Exit possibilities, including ‘No Deal’. We are absolutely committed to safeguarding, as far as we are able, the interests of businesses, communities and individuals, including EU nationals. Cabinet is currently overseeing work on preparations for a possible ‘No Deal’ exit on 31 October, prioritising areas that will be heavily impacted such as the economy, transport, food and drink, medicines, agriculture and the rural economy. Nevertheless, it is clear that it will not be possible to mitigate all of the impacts of a ‘No Deal’ exit – which is why we continue to press the UK Government to rule out this possibility.”

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Governance structures

The Scottish Government has existing governance and organisational structures to prepare for, and deal with, emergencies - often referred to as "resilience". The Scottish Government has primarily used these structures to plan for potential disruptions immediately following a no-deal Brexit.

The Ministerial Group on EU Exit Readiness

Given the increased likelihood of leaving the EU without a deal on 31 October and the widespread and inter-connected nature of the potential impacts of a ‘No Deal’ outcome, the Scottish Government has told SPICe that:

“ The Ministerial Group on EU Exit Readiness has been established to oversee the cross-Government programme of mitigation work to prepare and improve readiness for EU Exit. The First Minister is chairing regular meetings of the Group, whose membership includes the Deputy First Minister and all Cabinet Secretaries.”

The Ministerial Group on EU Exit Readiness is supported by a senior officials group of Scottish Government Directors and other staff in key policy and delivery areas.

Scottish Government Resilience Room

On 18 December 2018, the Scottish Government confirmed that weekly meetings of the Scottish Government Resilience Room (SGoRR) had begun, chaired by Deputy First Minister John Swinney MSP:

“ SGoRR meetings, which commenced on 4 December have included Cabinet Secretaries for Health, Justice, Transport and Finance as well as Scottish Government officials, other organisations such as Transport Scotland, Food Standards Scotland and Marine Scotland, COSLA, civil contingencies responders and Police Scotland.”

“ This structure is supported by a ‘rapid response’ group of officials which will grow as need requires. In the event of a ‘no deal’ this structure will be the central coordinating and controlling body and will be in permanent session.”

Scottish Government, 2018¹⁵

SGoRR was stood down following the decision to extend the Article 50 period in April 2019. However, preparations are now being finalised to re-activate SGORR during October to respond to any civil contingencies impacts that may arise as a result of a ‘No Deal’ Brexit on 31 October.

The Scottish Government has confirmed to SPICe that in the event of a ‘No Deal’ Brexit, the Scottish Government will activate its emergency response arrangements through the SGoRR, and associated meetings of the Ministerial “Resilience Committee”.

According to the Scottish Government:

“ The principal role of SGORR is to facilitate strategic decisions and/or facilitate co-ordination of immediate actions to respond to any civil contingencies impacts (any impacts that are causing, or have potential to cause, serious damage to human welfare, such as loss of life, illness or injury; homelessness or damage to property; disruption to the supply of money, food, water, energy or fuel; disruption of health services; disruption of a communication system; disruption of transport; or serious damage to the environment). In doing so SGoRR will provide strategic direction, co-ordinate and support the activity of Scottish Government Directorates; collate and maintain a strategic picture of the emergency response; and ensure effective communication between local, Scottish and UK levels, including the co-ordination of situation reports. SGoRR will support response efforts as appropriate, including the allocation of resources, and determine the Scottish Government's public communication strategy and co-ordinate national public messages in consultation with response partners such as Police Scotland, to disseminate national advice and information for the public, through the media and liaise with the UK Government. SGoRR will focus on co-ordinating the government response to critical, real-time civil contingencies impacts which result from a ‘No Deal’ Brexit. Issues which do not meet this threshold will be managed by the wider Scottish Government ‘No Deal’ response. ”

[Preparing Scotland](#) is guidance designed to assist Scotland plan, respond to, and recover from emergencies. This guidance describes the role of the SGoRR:

When the scale or complexity of an emergency is such that some degree of central government co-ordination or support becomes necessary, Scottish Government will activate its emergency response arrangements through SGoRR. The precise role of SGoRR will vary depending on the nature of the emergency.

SGoRR will:

- provide strategic direction for Scotland
- co-ordinate and support the activity of SG Directorates
- collate and maintain a strategic picture of the emergency response with a particular focus on response and recovery issues
- brief Ministers
- ensure effective communication between local, Scottish and UK levels, including the co-ordination of reports on the response and recovery effort
- support response and recovery efforts as appropriate, including the allocation of scarce Scottish resources
- determine the Scottish Government's public communication strategy and co-ordinate national public messages in consultation with SCGs and other key stakeholders
- disseminate national advice and information for the public, through the media
- if appropriate, liaise and work in partnership with the UK Government.

To achieve the above, clear and comprehensive communication between SGoRR and all agencies involved is necessary.¹⁶

SGoRR is supported by the Scottish Government's Resilience Division and other structures.

Civil Service Response

Scottish Government Directorates are responsible for developing, co-ordinating and advising Ministers on the identification and mitigation of risks associated with 'No Deal', for managing any issues which fall below the "civil contingencies" SGoRR threshold and for leading on longer-term recovery. Scottish Government Directorates will also provide SGoRR with situational awareness and advice about any civil contingencies impacts arising as a result of Brexit that require immediate action, and cannot be dealt with locally, within individual portfolios.

The Scottish Government has confirmed that thematic 'Hubs' are being established across the Scottish Government to help co-ordinate this work.

Resilience partnerships

On 6 February, the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP told the Scottish Parliament:

“ The Scottish resilience partnership is co-ordinating work across Scotland to ensure that local resilience partnerships are fully engaged in planning, mitigation and the preparation of arrangements in response to any of the civil contingency issues arising out of EU exit. A national EU exit civil contingencies plan is being developed on a multiagency basis, which will be tested and exercised shortly.”

The [Preparing Scotland](#) guidance describes the role of the Scottish Resilience Partnership (SRP):

The Scottish Resilience Partnership (SRP) acts as a strategic policy forum for resilience issues, providing collective assurance to Ministers that statutory responders and key resilience partners are aware of significant resilience gaps and priorities, and are addressing these in line with appropriate and available resources. It also provides advice to the resilience community on how best to ensure that Scotland is prepared to respond effectively to major emergencies.¹⁶

The [Ready Scotland](#) website provides more information on the local partnerships:

Multi-agency co-ordination in Scotland is based on three Regional Resilience Partnerships (RRPs - [North](#), [East](#) and [West](#)) which are broken down into 12 Local Resilience Partnerships (LRPs). These groups bring together all the relevant organisations in an area to develop an effective approach to dealing with emergencies.¹⁷

In correspondence with SPICe, the Scottish Government has provided more information about the role of the SRPs:

“ The Scottish Resilience Partnership (SRP) acts as a strategic policy forum for resilience issues, ensuring that statutory responders such as the emergency services, Local Authorities and key resilience partners are aware of significant resilience gaps and priorities, and are addressing these in line with appropriate and available resources. It also provides advice to the resilience community on how best to ensure that Scotland is prepared to respond effectively to major emergencies. A core group of the most senior statutory responders and key resilience partners form the SRP. The SRP has created an EU Exit Sub-Group to co-ordinate multi-agency civil contingencies preparations for EU Exit. A multi-agency control centre at Bilston Glen will provide national co-ordination. The Scottish Government’s Resilient Partnerships Team supports resilience across Scotland’s Resilience Partnerships at local and regional level, with three teams based in the North, East and West of Scotland, coordinating local resilience planning response and recovery arrangements and providing a direct link into the Scottish Government resilience planning and response arrangements.”

Public communications

The Scottish Government has published information on "the UK's possible exit from the European Union (Brexit) and how it may affect people and businesses in Scotland" on the mygov.scot website:

- www.mygov.scot/brexit

Information specific to business contingency planning is published as part of the 'Prepare for Brexit' communications campaign:

- www.prepareforbrexit.scot

Scottish contingency planning

Many of the [12 risk areas identified by the UK-wide Operation Yellowhammer](#) are reserved. However some of these reserved risk areas still require contingency planning in Scotland. For example, while goods crossing the border is a reserved matter, ensuring the supply of medicines and medical supplies is essential to the devolved health service.

This section describes, by sector or policy area, some of the short-term risks and potential disruptions identified in a no-deal Brexit scenario and, where available, what actions have been taken to mitigate these risks or disruptions. Actions are a mix of Scottish-specific measures and cooperation on UK-wide measures. These sections draw on information which was available at the time of writing.

Economy and businesses

Economic analysis suggests that the Scottish and UK economies will be negatively impacted by a no-deal Brexit. This section begins by examining the analysis by the UK and Scottish Governments.

UK Government economic analysis of no-deal

On 26 February, the UK Government published [Implications for Business and Trade of a No Deal Exit](#) on 29 March 2019¹⁸. This paper provided an assessment of the implications of a no deal exit for trade and for businesses, given the preparations that had been made at that point.

The UK Government cited previous economic analysis of the impact of a no-deal Brexit suggesting that the UK economy would be 6.3-9.0% smaller in the long term in a no deal scenario (after around 15 years) than it otherwise would have been when compared with current arrangements (EU membership), assuming no action is taken. The analysis also highlighted there would be significant variation across the UK (Wales -8.1%, Scotland -8.0%, Northern Ireland -9.1% and the North East of England -10.5%). According to the UK Government:

“ This analysis does not account for any short term disruptions, which would be likely to have additional short and long run economic impacts in an immediate no deal scenario. No modelling can completely capture the complex ways in which the UK economy could be affected by exiting the EU, particularly given the unprecedented circumstances of the UK's departure.”

UK Government, 2019¹⁸

The UK Government's report highlighted specific reasons for the potential economic impact of a no-deal Brexit focussing on disruption to trade flows caused by hold-ups at the UK-EU border and the potential for tariffs to be applied to UK exports to the EU.

The UK Government's paper suggested that much of the preparation for a no-deal Brexit would fall to businesses and traders to prepare themselves for a no-deal Brexit stating:

“ In August, September and October 2018, the Government released a series of technical notices, outlining in detail the potential impacts of a no deal scenario, as well as the steps that businesses and traders might want to consider taking to prepare. In recent weeks, the Government has stepped up communications to businesses and individuals to provide the information they need to prepare. All this information is available in a dedicated preparedness website: www.gov.uk/EUExit. The Government is continuing to work to increase funded, targeted advertising on no deal preparedness, including through radio and social media. This media campaign is complemented by a substantial volume of briefings given to relevant industry, trade, consumer and other bodies.”

UK Government, 2019¹⁸

Key priorities for businesses preparing for a no-deal Brexit include registering for an [Economic Operator Registration and Identification \(EORI\) number](#). Without registering for an EORI number, businesses would not be able to complete the necessary customs documentation for goods they are importing into and out of the EU. Completing a form to secure a number can be done online in around ten minutes.

Scottish Government economic analysis of no-deal

A report by the Scottish Government's Chief Economist published in February 2019 suggested a no-deal Brexit "could have a dramatic impact on Scotland's economy, with the potential for national Gross Domestic Product (GDP) to fall by up to 7%." ¹⁹ The report examined both short-term impacts of a no-deal Brexit along with an extended period of disruption.

In terms of the immediate short-term disruption, the Chief Economist's report highlighted that the impact is likely to focus primarily on the supply side, causing major disruption to the movement of goods and services.

The Chief Economist's report outlined a number of possible macroeconomic impacts under six headings:

- Trade disruption.
- Investment.
- Exchange Rate.
- Inflation and Interest Rates.
- Migration.
- Labour Market.

The most immediate of these impacts following a no-deal are considered below.

Trade disruption

Export Statistics Scotland 2017 showed that Scottish exports to the EU and to countries with which the EU has free trade agreements account for 57% of Scotland's international

exports. The Scottish Government's report suggests that the disruption caused by a no-deal Brexit could have an impact on those exports:

“ the scale of the impact could be significant, and may be in the range of 10% - 20% given the potential changes to market access and free movement of goods. Imports from the EU would fall too, which may provide some opportunity for Scottish companies to refocus on domestic markets.”

Scottish Government, 2019²⁰

Investment

The Chief Economist's report also highlighted analysis by the Bank of England which suggested that Foreign Direct Investment (FDI) in the UK would fall by around 20% over the coming years in the event of no deal. The Scottish Government suggested this could result in a loss of around £1 billion in business investment in Scotland in 2019. ²⁰

Exchange Rates

The Chief Economist's paper suggests that a depreciation in Sterling along with the wider disruption caused by no deal would lead to increased inflation and consequently in higher interest rates:

“ Such an outcome could put pressure on households and businesses' ability to service existing debt and discourage new borrowing and investment.”

Scottish Government, 2019²⁰

Inflation and interest rates

Finally, the Chief Economist's report cited Bank of England analysis which suggested that Consumer Price Index inflation could peak at 4.25%-6.5% in 2020 if there is no deal. This would result in interest rates averaging 1.5%-4% between now and 2022 ²⁰ .

Addressing the Scottish Parliament on 6 February 2019, the Cabinet Secretary for Government Business and Constitutional Relations said that a no-deal Brexit:

“ would have the potential to generate a significant economic shock that could tip the Scottish economy into recession—potentially a deep one. It would also have a severe impact on the labour market, potentially resulting in job losses, business relocations and closures, underemployment and a reduction in recruitment. The small and medium-sized enterprise sector would likely be worst hit.”

Scottish Parliament, 2019²¹

and that:

“ the sectors that are most at risk from a no-deal Brexit include agriculture, food and drink, chemicals, construction and some areas of manufacturing. Local authorities with the highest concentration of workers in those sectors are typically in more rural areas, reflecting the importance of sectors such as agriculture and fishing to those areas. ”

Scottish Parliament, 2019²¹

Action taken

In the lead up to the 29 March 2019 deadline the Scottish Government stated:

“ Last year, we launched the PrepareforBrexit.scot website, which offers readiness self-assessment tools and expert advice as well as access to learning and networking events and grants for Brexit planning support. That campaign can help many more businesses to take steps to enhance resilience despite the on-going uncertainty of Brexit.”

Scottish Parliament, 2019²²

[PrepareforBrexit.scot](#) is a partnership between the Scottish Government's key business support and skills agencies: Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland, Scottish Development International and Business Gateway. The Scottish Government says the campaign will:

“ help businesses review their plans in light of Brexit to ensure they can continue to develop their workforce, grow their business, export, innovate and access finance and investment.”

Scottish Government, 2018²³

The website provides a self-assessment tool, tailored links to further guidance and information for businesses, links to learning events and information on funding.

Brexit support grants of up to £4,000 were made available to SME exporters and potential exporters in June 2018, delivered through Scottish Development International. ²⁴ On 13 March 2019, eligibility for support grants was opened up to a wider range of SMEs. The new grant scheme can support Brexit preparations such as consultancy support, professional fees, external training, and international market research. ²⁵ It remains open to applications at present.

In July 2019, the Confederation of British Industry (CBI) published [a report outlining recommendations to help accelerate no deal preparations](#). In terms of recommendations for business, the report stated:

“ Businesses have spent billions of pounds preparing for a no deal Brexit. Headlines have been made as companies have shifted HQs, licenses and activity from the UK to the EU. Highly-regulated sectors like financial services, broadcasting and life sciences firms are well prepared for the immediate impact of no deal. However, despite this activity, much of the business community will not be ready for no deal. For hundreds of thousands of small companies, diverting precious resource – both human and financial – to Brexit preparedness measures is out of reach. The change in the scheduled date for no deal has also had an impact on business readiness. To improve its readiness, the CBI recommends the business community: ”

- Resume no deal preparations immediately ”
- If resource allows, have made plans to communicate additional needs for mitigations to the UK and the EU governments by the start of September ”
- Have agreed and reinforced communication routes into government by the middle of October ”
- Prioritise people if no deal occurs”

Confederation of British Industry, 2019²⁶

The latest state of Scottish business readiness for a no-deal Brexit is unclear. For example, [research undertaken by Anderson Strathern](#) in advance of the previous Brexit deadline of 29 March 2019 found survey results indicating 82% of SMEs had made no preparations for a no-deal Brexit.²⁷ On the other hand, [VisitScotland say 64% of tourism businesses are preparing for Brexit](#)²⁸, although the extent to which this involves 'no-deal' Brexit planning is unclear.

The Highlands and Islands Enterprise Business Panel published results of its survey of businesses in the area carried out between February and March 2019²⁹. The key Brexit-related messages arising from the survey were:

- Most business (95%) sold goods or services in Scotland, while 41% sold outside of Scotland but in the rest of the UK, and a quarter (26%) did so outside of the UK.
- Half (49%) of businesses said the decision to leave the EU presented a significant risk to their business, while less than a fifth (17%) agreed that the decision would bring significant new opportunities. Over three-quarters (77%) were confident that their business could adapt to the consequences of leaving the EU.
- Around half (48%) of businesses had already taken at least one action to plan for Brexit, higher amongst those who felt Brexit presented either a significant risk or opportunity, HIE account-managed businesses and those with 25+ staff.
- The most common actions taken were: assessing implications on current business models (29%), considering the impact of currency volatility on cash flow (26%) and reviewing supply chains (20%).
- Actions least likely to be taken were stockpiling goods and seeking external finance.
- Around a third (30%) of businesses did not plan to take any of the actions to plan for Brexit listed. The main reasons given were that they did not think Brexit would impact

on their business directly (73%) and that they were waiting to see what will happen with Brexit (49%).

EU citizens in the UK

With any sort of Brexit, the EU rules on freedom of movement will no longer apply to the UK. This will also affect UK citizens living in an EU member state after Brexit. However, the nature of Brexit will affect the way in which the rules are applied to EU citizens both currently in the UK and those EU citizens wishing to work and live in the UK in the future.

Under the draft Withdrawal Agreement, clarity was provided to EU citizens currently in the UK and to UK citizens currently living in another EU member state. The Withdrawal Agreement protected many of the rights EU citizens currently enjoy in the UK whilst the UK is a member state of the EU. It also sought to protect many of the rights of UK citizens living in other EU member states, though only in the Member State in which they were resident. More details about the protections provided to EU citizens in the UK under the Withdrawal Agreement are provided in the SPICe Briefing, [The UK's Departure from the EU - An Overview of the Withdrawal Agreement](#) and the SPICe Spotlight guest blog [Brexit and EU migration: where are we now?](#)

As a result of the Withdrawal Agreement, the UK Government established the EU Settlement Scheme. Under the Scheme, all EU citizens and citizens of Switzerland, Norway, Iceland and Liechtenstein currently living in the UK are obliged to fill in a short application form, either online or via a smartphone app, to (1) verify their identity, (2) confirm their residency and (3) complete a criminality check, to continue living in the UK after Brexit. The key dates governing the Scheme are:

- If the UK leaves after concluding a Withdrawal Agreement, the scheme will close on 30 June 2021. EU and EFTA citizens moving to the UK before the end of the transition period (the 31 December 2020) may be eligible to apply for pre-settled status.
- If the UK leaves the EU without a deal, the timeframe is shorter, with registration closing on 31 December 2020. There would also be a tighter residency duration, with only EU/EFTA citizens living in the UK by 31 October 2019 being able to apply³⁰.

If EU and EFTA citizens fail to apply for settlement prior to the relevant deadline (or, in the case of no deal, if they arrive in the UK after Brexit Day on 31 October 2019), they risk losing their rights to live in the UK and may have to apply for a visa.

In effect, a no-deal Brexit will bring forward the cut-off date for EU citizens living in the UK to apply for settled or pre-settled status allowing them to stay. It will also bring forward the date by which EU citizens wishing to live and work in the UK under the settlement scheme must be in the UK before exit day on 31 October 2019.

In a no-deal situation, the UK Government has also indicated the rights of EU citizens would be affected. The three ways they will be affected are explained in detail in the [SPICe Briefing The UK Government's EU Settlement Scheme](#), they are:

(a) they will have no right of appeal to the European Court of Justice.

(b) the UK deportation threshold (which is more stringent than the EU equivalent) would replace the EU deportation threshold for any crimes committed after 31 October 2019. and

(c) there will be a new cut-off date of 31 March 2022 for non-EU family members to join EU citizens in the UK; thereafter they must apply through the applicable UK Immigration Rules.

The previous UK Government also set out its understanding of the situation for UK nationals living in an EU member state in the event of a no-deal Brexit:

“ The Government has engaged extensively with UK nationals in the EU over the last two years and we understand the uncertainty that would be faced by UK nationals in the event of a ‘no deal’ scenario. We have always acted to ensure that UK nationals can continue to live their lives broadly as they do now, and that remains our objective in a ‘deal’ and ‘no deal’ scenario. However the UK cannot act unilaterally to protect the rights of UK nationals in the EU and that is why we have always prioritised reaching a reciprocal agreement with the EU. The Withdrawal Agreement is the only way the UK Government can guarantee the rights of the one million UK nationals living in the EU. The UK continues to call on the EU and Member States to uphold their commitments to citizens and to protect the rights of UK nationals in the EU in the event of a ‘no deal’ scenario. We want UK nationals to be able to stay in the Member States that they live in when we leave, and for their rights to employment, healthcare, education, benefits and services to be protected. We ask Member States to set out details of how they would do so as soon as possible. ”

UK Government, 2018³¹

The previous UK Government also set out the arrangements for EU citizens wishing to come to live and work in the UK after a no-deal Brexit. According to the plans, announced in January 2019, EU citizens will still be able to come to the UK for visits, work or study and they will be able to enter the UK as they do now. However, to stay longer than 3 months they will need to apply for permission and receive European Temporary Leave to Remain, which is valid for a further 3 years. EU citizens wishing to stay for longer than 3 years will need to make a further application under the new skills-based future immigration system, which the previous UK Government indicated would begin - if it received parliamentary assent - from 2021³². The policy does not apply to EU citizens here before exit day who have obtained either Settled Status or Pre-Settled Status, whose rights to live and work will be protected by the EU Settlement Scheme. Other elements of the previous UK Government's proposed rules for EU citizens after a no-deal Brexit are³²:

- EU citizens arriving in the UK who wish to stay longer than 3 months and apply for European Temporary Leave to Remain will be subject to identity, criminality and security checks before being granted permission to stay for three years.
- Non-EU family members who wish to accompany an EU citizen under these arrangements will need to apply in advance for a family permit.
- EU citizens will be able to enter and leave the UK as they do now, using e-gates when travelling on a biometric passport.
- The initial 3 months' leave to enter for EU citizens will be free of charge but applications for European Temporary Leave to Remain will be paid for. Fees will be set out at a later date.

- Irish citizens will not need to apply for European Temporary Leave to Remain and will continue to have the right to enter and live in the UK under the Common Travel Area.

It is currently not clear whether the new UK Government plans to adopt the previous government's proposals for the arrangements for EU citizens wishing to come to live and work in the UK after a no-deal Brexit.

Action taken

A no-deal Brexit might cause uncertainty and distress for EU citizens currently living and working in the UK, and in particular for those who have not obtained either Settled Status or Pre-Settled Status.

The Scottish Government has consistently sent a message to EU citizens living in Scotland urging them to stay here. Most recently the First Minister sent an [open letter to EU citizens](#) on 5 April 2019 encouraging them to apply for the UK government's EU settled status scheme. In the letter the First Minister wrote:

“ Scotland is your home, you are welcome here, and you are valued. You play a crucial role in Scotland's economy and public services. You are a vital part of Scotland not just for the skills and talent you bring to our country but also the diversity and richness you bring to our culture and communities... ..Although immigration is a reserved issue, as a nation, Scotland has a long history of welcoming people of all nationalities, and while the Scottish Government unfortunately does not have the power to simply grant the right to remain for those that seek it, we do want all those who have made their lives here to be able to stay.”

Scottish Government, 2019³³

To coincide with the launch of the EU Settlement Scheme, the Scottish Government launched a package of support for EU citizens wishing to stay in Scotland ³⁴ . The package included:

- £250,000 for community-based support across Scotland.
- A 'Stay in Scotland' toolkit to support EU citizens and employers with EU staff.
- EU Citizens Support - a free, specialist support service provided by Citizens Advice Scotland for anyone affected by the UK Government's EU Settlement Scheme.

According to the Scottish Government, the toolkit:

“ provides a range of materials for employers and EU citizens. It includes information on the UK Government's EU Settlement Scheme, details of the application process and requirements, links to other resources and some practical suggestions about how employers can support their EU employees in the workplace.”

Scottish Government, 2019³⁴

The Scottish Government has also provided information and links to the UK Government's EU Settlement Scheme on the [mygov.scot website](#).

Health and medicines

One of the main immediate risks of a no-deal Brexit are to the supplies of medicines and medical supplies. Most of the arrangements connected to medicine supply in the event of a no-deal Brexit are outside the control of the Scottish Government, such as stockpiling by pharmaceutical companies or entry and customs controls at the UK border.

Another risk is the uncertainty of the rights of EU citizens who live and work in the Scotland. The Scottish Government has stated:

“ It has long been clear that leaving the EU under any circumstances would have a negative impact on the health and social care sector. If the free movement of people was curtailed, that would have serious consequences for the recruitment and retention of health and social care workers.”

Scottish Parliament, 2019²¹

Recruitment and retention in the social care sector is an existing challenge recognised by the Scottish Government, regardless of Brexit, and the uncertainty of EU citizens' status threatens an already fragile sector. Any salary threshold (for example the £30,000 threshold mooted in the [UK Government White Paper, December 2018](#)) is likely to affect the recruitment of social care and health staff from the EEA, because many posts would not meet that threshold.

On 12 August 2019 the UK Government published [Guidance: Actions for adult social care providers to prepare for Brexit](#). Included in the guidance is reference to the continuation of recognition of professional qualifications.

On 7 March 2019 the government put in place legislation to ensure that professional qualifications from institutions in the EU, Norway, Iceland, Liechtenstein and Switzerland will still be recognised by all professional regulators in the health and social care sectors when the UK leaves the EU, including:

- the Health and Care Professions Council.
- the General Medical Council.
- the Nursing and Midwifery Council.
- the General Pharmaceutical Council.
- the General Dental Council.

This means health and care staff from the EU, Iceland, Liechtenstein, Norway and Switzerland who are currently practising in the UK can continue to do so.

However, the recruitment and retention of medical and nursing staff is also likely to be affected, regardless of any earnings threshold. According to the [Kings Fund](#):

“ The UK has a greater proportion of doctors who qualified abroad working than in any other European country, except Ireland and Norway... (and) the number of nurses and midwives from Europe leaving the Nursing and Midwifery Council’s register has doubled from 1,981 in 2015/16 to 3,692 in 2017/18, while the number joining fell by 91 per cent ([Nursing and Midwifery Council 2018](#)). ”

The King's Fund, 2019³⁵

Cross-border healthcare is an area where disruption could occur, with Scottish patients who have opted to have their treatment in another EU country, and vice versa could be affected.

Brexit could also affect the use of the EHIC (European Health Insurance Card) scheme. Guidance from the Department for Health states:

“ The European Health Insurance Card (EHIC) may not be valid if there's a no-deal Brexit. This will depend on arrangements with individual countries and might mean you need to pay for treatment in full.”

UK Government, 2019³⁶

Action taken

The Scottish Government issued a [letter to stakeholders in March 2019](#) updating them on planning for medicines supplies and supplies of medical devices and consumables. This letter included a reminder that shortages of certain medicines, because of availability of raw ingredients for example, were not uncommon, and that procedures already exist across the UK to mitigate the effects of these. The letter stated:

“ The Scottish Government is working with all other UK Administrations to make sure that people receive the medicines and other medical supplies they need, as far as is possible, if the UK leaves the EU without a deal.”

“ Pharmaceutical companies have stockpiled medicines and across the UK the NHS has stockpiled other supplies like medical devices and clinical consumables. Arrangements are also being made to transport into the UK, including by air, items that cannot be stockpiled.”

“ The UK Government has stated that, if there are delays at the UK Border, medical supplies will be given priority for entry into the UK.”

“ Members of the public, GPs, community pharmacies and hospitals should not stockpile.”

“ Shortages may occur, but the NHS will manage the situation and if necessary provide suitable alternatives or other treatment while supply is restored to normal levels.”

Scottish Government, 2019³⁷

On the matter of potential staff shortages in health and social care, in its submission to the UK Government's Migration Advisory Committee, the Scottish Government published “extensive evidence” on how Brexit could cause skills shortages in a range of sectors already under pressure...The Scottish Government has called for the UK Government's Scotland-only Shortage Occupation Lists (SOLs), the jobs in Scotland which can be filled by ‘third-country nationals’, to be “revised and expanded in order to make it more flexible

to take account of current and future labour shortages.” The Scottish Government has also called for the UK immigration system to be adapted to meet Scottish needs, for instance through a Scotland-specific visa scheme ³⁸ .

In a report published in March 2019, [Shortage occupations list 2018: call for evidence - our response for health and social care](#), ³⁹ the Scottish Government set out its position on recruitment needs across the whole Scottish economy, with a particular focus on health and social care sectors.

New arrangements for cross-border healthcare are likely to be complex. Current arrangements are dependent on how the health care system works in each and every EU Member State. For example, in the UK eligibility is residency-based (although there is variation in how this operates in practice between NHS England and NHS Scotland). In other EEA countries, when using an EHIC card, citizens will be expected to contribute some of the costs of treatment, as the citizens of that country do. Negotiations on future reciprocal arrangements will have to be made separately with each member state. Some of the issues arising were highlighted in the [Health and Sport Committee's scrutiny of the Healthcare \(International Arrangements\) Bill 2017-19](#) on 11 December 2018, when NHS Scotland Director General, Paul Gray gave evidence.

Food and water

Every day there are significant movements of food from the UK to the EU, and vice versa. In a no deal scenario, issues may include the flow of food imports and exports and the subsequent impact on businesses. For consumers there may be issues around food availability, labelling, choice and price. Behind the scenes, access to food safety expertise, and related regimes, will change overnight. Whilst planning may be underway for such scenarios, how the public may respond to perception or reality around food is more difficult to predict or mitigate. On 6 February 2019 the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell stated:

“ Studies by the British Retail Consortium and others suggest that, in the absence of a trade agreement between the UK and the EU, reversion to World Trade Organization tariffs for imports and exports could lead to significant price increases, particularly for food and drink. The governor of the Bank of England has identified potential rises of 5 and 10 per cent.”

Scottish Parliament, 2019²¹

On 14 August George Eustace, Minister of State for the UK Department for Environment, Food and Rural Affairs responded to a parliamentary question on the availability of fresh produce:

“ The UK’s high degree of food security is built on access to a range of sources including strong domestic production and imports from other countries. This will continue to be the case whether we leave the EU with or without a deal. Half of the food we eat is produced in the UK. The rest of our food is imported, with 30% coming from the EU and 20% from other countries. There will not be an overall shortage of food in the UK as a result of a no deal Brexit. However, there may be fluctuations in the availability and choice of certain seasonal products, such as fresh fruit. The UK has a high degree of self-sufficiency in some vegetables year-round including root vegetables, cabbage and potatoes, as well as certain fruits during the summer harvest season including strawberries and apples. Over the last three years Government has been working to prioritise the smooth flow of trade, particularly at channel ports, to minimise any disruption if the UK leaves the EU without a deal. This includes cross Government work to ensure traders and hauliers in the UK and the EU are prepared for changes to exporting and importing requirements; ensuring our approach to imports achieves a smooth flow of goods at UK ports; working with stakeholders, major ports and airports to ensure that they are making their own preparations for leaving the EU; and developing traffic management plans to manage any potential delays at the ports, for example Operation Brock in Kent.”

UK Parliament, 2019⁴⁰

The Scottish Government has published updated guidance which mirrors this position, stating that there is no need to stockpile food.

Some commentators, such as City University Professor of Food Policy, Tim Lang, have [argued](#) for such planning assumptions to be released, in order that they can be scrutinised⁴¹.

On 1 September 2019, the British Retail Consortium issued a news release suggesting that availability of fresh food was possible in the event of a no-deal Brexit. The news release stated:

“ The retail industry has been crystal clear in its communications with Government over the past 36 months that the availability of fresh foods will be impacted as a result of checks and delays at the border. Indeed, the Government’s own assessments showed that the flow of goods through the channel crossings could be reduced by 40-60% from day 1, as would the “availability and choice” of some foods. The BRC’s own assessment has shown that soft fruits and vegetables, such as strawberries, tomatoes and lettuces, would likely see reduced availability as they are largely imported during the winter months. While retailers continue to work with their suppliers to maintain stocks of non-perishable goods and plan ahead for any disruption caused by a no deal Brexit, it is impossible to mitigate it fully as neither retailers nor consumers can stockpile fresh foods. The reality remains that a no deal Brexit in October would present the worst of all worlds for our high streets and those who shop there. Retailers will be preparing for Christmas, stretching already limited warehousing capacity, and the UK will be importing the majority of its fresh food from the EU, magnifying the impact of border delays.”

British Retail Consortium, 2019⁴²

Food Standards Scotland (FSS) has responsibility for making sure that food is safe to eat, ensuring consumers know what they are eating and improving nutrition. The FSS remit also covers animal feed. FSS has stated that:

“ Under the current system of largely harmonised EU food and feed law, a considerable amount of risk analysis is undertaken by the European institutions, including the European Food Safety Authority (EFSA) (risk assessment) and the European Commission (EC) (risk management), with involvement of the Member States throughout the process, e.g. through EC Standing Committees. Whilst longer-term, post-transition, arrangements in the event of a deal being agreed between the UK and EU are yet to be determined, in the event of a no-deal outcome, the food safety bodies in the UK – FSS and FSA – will become responsible, through the fixing legislation that repatriates EU law, for a number of functions currently undertaken by EFSA, including risk assessment, whilst Ministers in each administration will have responsibility for risk management decisions that are currently taken at the European level. ⁴³ ”

FSS’s position on leaving the EU is to:

“ ensure that, whatever legislation is introduced as a consequence of the UK’s exit from the EU, this should not result in any reduction in the level of protection afforded to consumers in Scotland, and that FSS, with its current remit and powers, is best placed to ensure the continued protection of public health, improvement in diet and protection of the other interests of consumers in Scotland in relation to food. ⁴³ ”

The continued protection for high-quality geographically designated UK food and drink on the EU market in a no-deal Brexit is another challenge. As discussed in a recent [SPICe Briefing](#), UK food products are part of the EU Protected Food Name Scheme and covered by the European Regulation for the protection of geographical indications of spirit drinks. If the UK leaves the European Union with no-deal, when negotiations begin again, the UK and the EU will need to address how both parties plan to operate with respect to GIs in the future. If there is no agreement, there may be a need to fall back on the provisions of the World Trade Organisation’s TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) agreement. The UK currently has 86 protected food names including 14 Scottish products. Scotch Whisky also has an EU registered GI.

Action taken

On 24 June 2019 the cross-UK Inter-Ministerial Group for Environment, Food and Rural Affairs met. The communique from the meeting stated:

“ All administrations agreed that it was important to continue to prepare for a no deal exit while this remained a potential outcome and the group considered the potential impacts focussing on food supply and support for sectors, including the impact on markets and non-tariff barrier delays. With four months until a potential no deal exit, ministers also raised a number of outstanding issues that require resolution, including support for the sheep, beef and dairy sectors, Geographical Indications recognition and addressing operational challenges on export health certificates.”

UK Government, 2019⁴⁴

On 21 August 2019 the Scottish Government published updated guidance on [Agriculture after Brexit \(farming and food production\)](#) and on [Food and drink after Brexit \(food supply and laws\)](#). This guidance usefully cross-references to appropriate agencies, and related guidance from the UK Government.

When asked, in December 2018, about its degree of readiness for the then leaving date of 31 March 2019, the Chief Executive of Food Standards Scotland stated that he did "not have a high degree of confidence" that appropriate work would be in place. However, the current FSS position is [that](#):

“ Should there be a ‘no-deal’ exit, Food Standards Scotland is contributing to Scottish Government’s wider contingency planning arrangements. We have been working hard behind the scenes to ensure that we can continue to support a food and drink environment in Scotland that protects consumers, regardless of the outcome of Brexit.”

Food Standards Scotland, n.d.⁴⁵

FSS has also stated that:

“ Whichever political outcome is reached however, it is expected that the repatriation of responsibility for food and feed safety and hygiene risk analysis will result in an increased workload for the food safety bodies within the UK, and greater scrutiny of the processes involved. FSS has been working with FSA, which has been leading the development of a new process to provide the infrastructure and arrangements for risk analysis in future.”

Food Standards Scotland, 2019⁴³

and

“ FSS has been working closely with colleagues in Scotland and with other government departments across the UK on the legislative fixes needed to ensure that the repatriated body of relevant directly applicable EU law that exists on exit day transfers effectively onto the domestic statute book.”

Food Standards Scotland Board Meeting 20 February 2019, 2019⁴⁶

On water, the BBC reported in January 2019 that Scottish Ministers considered the risk to water supplies as a result of a no-deal Brexit to be low.⁴⁷ Scottish Water's delivery plan update for 2019 states:

“ In order to proactively manage the risks associated with a ‘No Deal’ Brexit, or an agreement which could impact operations, we have established an Operational Planning Group focussing on the short-term risks associated with procuring key products and materials to enable the continuity of our core services.”

Scottish Water, 2019⁴⁸

On 15 August 2019 Water UK, the industry representative body, issued a briefing note to Local Resilience Forums in England and Regional Resilience Partnerships in Scotland. Whilst the note focussed on activities south of the border, the arrangements described cover the whole of the UK. Scottish Water is an active member of Water UK. The note stated:

“ Every UK water company is performing its own contingency planning, with regular reports to their Boards on progress. The Industry as a whole has also put in place a cross-sector programme to prepare for and manage any issues that do occur. This programme has established a decision-making and incident control group, on which every UK water company sits at senior level. The programme has completed a Water Sector Chemical Supply Risk Assessment, and we are building a highly-detailed understanding of chemicals transport routes and storage arrangements. This should allow us to spot any problems well in advance of any effects being felt. To support this, water companies are also: taking forward senior, strategic liaison with suppliers to assure the quality of their individual contingency arrangements; evaluating and developing measures to minimise the residual risk, like mutual aid arrangements between companies; routinely sharing company information, risk assessments and plans, and pooling technical and other expertise across industry.”

The Scottish Government remains an active participant in food and water discussions with Defra, other devolved administrations and regulators. A number of partner organisations, largely representing business, have produced a [Brexit Food Hub](#) contingency planning resource for a No Deal scenario.

Transport of goods and fuel

During the period following a no-deal Brexit, there could be significant delays and disruption to the movement of goods and people travelling between the UK and EU members states as:

- UK nationals will no longer be entitled to use the separate EU/EEA/CH lanes at EU border crossing points, and will be subject to additional immigration checks.
- Goods and luggage will be subject to customs checks.
- The current regulatory regimes governing air, rail, maritime and road transport between the UK and the EU will cease, being replaced by other long-standing international agreements or ad hoc arrangements intended to maintain a basic level of connectivity between the UK and EU members states, until more permanent arrangements can be agreed.

The European Commission has been clear about the limited extent of these temporary arrangements, stating ⁴⁹ :

“ ...contingency measures cannot replicate the benefits of membership of the Union, nor the terms of any transition period, as provided for in the draft Withdrawal Agreement. ”

The possible extent of disruption to the movement of goods and people following a no-deal Brexit was set out in a UK Government paper leaked to the *Sunday Times* ⁵⁰ , which indicated that:

“

- Logjams caused by months of border delays could "affect fuel distribution", potentially disrupting the fuel supply in London and the southeast of England”
- Up to 85% of lorries using the main Channel crossings "may not be ready" for French customs and could face delays of up to 2 1/2 days”
- Significant disruption at ports will last up to three months before the flow of traffic "improves" to 50-70% of the current rate”
- Petrol import tariffs, which the government has set at 0%, will "inadvertently" lead to the closure of two oil refineries, 2,000 job losses, widespread strike action and disruptions to fuel availability”
- Passenger delays at EU airports, St Pancras, Eurotunnel and Dover”
- Medical supplies will "be vulnerable to severe extended delays" as three-quarters of the UK's medicines enter the country via the main Channel crossings”
- The availability of fresh food will be reduced and prices will rise. This could hit "vulnerable groups””

Commenting on this document, Michael Gove MP, Chancellor of the Duchy of Lancaster stated ⁵¹ :

“ It's certainly the case that there will be bumps in the road, some element of disruption in the event of no-deal. But the document that has appeared in the Sunday Times was an attempt, in the past, to work out what the very, very worst situation would be so that we could take steps to mitigate that. And we have taken steps.”

However, concerns have been raised by transport industry and wider business stakeholders about the level of preparedness following the release of this document. For instance, the Freight Transport Association (FTA) stated ⁵² on 19 August 2019 that:

“ Some of the scenarios leaked in the Operation Yellowhammer report came as a surprise to the industry, despite FTA's constant conversations with government since Article 50 was triggered: the areas of concern which have never been mentioned yet would have a significant impact on the way the country conducts business. This is not about the politics of Brexit – for the past three years, FTA has been pressing government for clarity on the trading environment we will be working in once the UK leaves the EU, with only limited success. Following the revelations in the media at the weekend, it is disheartening to discover that the government has been concealing the facts which business needs in order to keep Britain trading effectively. The news that fuel supplies could be impacted is particularly worrying, considering this would affect the movement of goods both domestically and internationally – as an industry, we remember the impact of the 2000 fuel strike very well, and the chaos which it caused, both for business and for individuals.”

Speaking on BBC Good Morning Scotland ⁵³ on 19 August 2019, CBI Director General Carolyn Fairbairn reaffirmed her view that a no-deal Brexit could cost Scotland £14bn a year by 2034 (based on a CBI estimate published in January 2019 ⁵⁴), with transport disruption a key concern despite preparations being put in place, stating:

“ In Scotland, just-in-time manufacturing is a very important part of the Scottish economy - it's a real concern, it's one of the reasons why we're already seeing an impact of Brexit on our economy.”

Action taken

Customs arrangements, immigration, international trade and the regulation and licensing of transport operators and their staff are all reserved to the UK Parliament. This means that the Scottish Government cannot directly address the root causes of many transport issues that might arise following a no-deal Brexit. However, the Cabinet Secretary for Government Business and Constitutional Relations indicated in a statement to the Scottish Parliament on 6 February 2019 ²¹ that:

“ We are working with the Department for Transport to establish the extent to which its contingency plans are addressing Scotland's needs for critical goods and, in particular, how rurality can be factored into supply chain issues... Transport Scotland is working with transport providers and with ports and airports in Scotland to assess their existing capacity and to identify how they could mitigate disruption and ensure that Scotland's exporters continue to get their goods to market.”

The UK Department for Transport has published a series of [no-deal technical planning notices](#) on regulatory arrangements for driving, road haulage, air services and maritime transport following a no-deal Brexit. Most of these cover a period of between three and six months following a no-deal Brexit, with longer-term arrangements dependent on further agreement between the UK Government and the EU.

In a [written statement](#) issued on 26 June 2019, the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, launched a [Freight Capacity Framework](#) stating that:

“ The Department for Transport is putting in place a freight capacity framework agreement that will provide government departments with the ability to secure freight capacity for our critical supply chains as and when required. This framework does not commit the Government to purchasing or reserving any freight capacity, but it does provide a flexible list of operators and options for the provision of the capacity that can be drawn upon if needed.”

Law enforcement

EU law enforcement measures are focused on fighting cross-border crime.

The UK participates in around 40 of these measures. These include:

- [Europol](#) and [Eurojust](#) - the EU's law enforcement and judicial co-operation agencies.
- [The European Arrest Warrant](#) - a fast-track system for extraditing suspects and convicted criminals to and from other Member States.
- [The European Investigation Order](#) - this allows evidence from one Member State to be used in others.

- Rules on exchanging police data between Member States - e.g. the [Schengen Information System](#) which shares law enforcement alerts in real time.
- [The European Criminal Records Information System](#) (ECRIS).
- [The Prüm framework](#) for sharing DNA, fingerprints and vehicle registration data.

As the Member State, the UK is responsible for signing up to EU law enforcement measures. However, as most policing and criminal justice matters are devolved, Scottish bodies (Government, Parliament, prosecution service, police etc.) play a key role.

The Withdrawal Agreement delays the UK leaving this system until the end of the transition period. It also lays down rules for criminal cases which are not yet complete at the end of this period. What it does not do is provide for a new justice framework. This is something which still needs to be negotiated. The Political Declaration states that the broad aim should be a close future relationship, but includes no detail and has been rejected by the Commons (see [the SPICe briefing on the Political Declaration](#).)

A no deal would mean no transition and no time to complete detailed negotiations. The EU's law enforcement measures would, therefore, cease to apply in Scotland/the UK on Brexit day. In the absence of *ad hoc* arrangements, cooperation with the EU after Brexit would rely on falling back on a limited number of non-EU mechanisms such as the Council of Europe's [European Convention on Extradition](#). In addition, a no deal would lead to uncertainty as to what rules would apply to ongoing criminal cases in Scotland currently governed by EU rules.

On 6 February 2019 the Cabinet Secretary for Government Business and Constitutional Relations, Mike Russell indicated that if there was no deal:

“ ... we would be denied access to many of the security and law enforcement co-operation measures that Police Scotland and the Crown Office use daily to keep people safe. We would lose membership of Europol, the use of the European arrest warrant and access to vital information-sharing arrangements. That would represent a significant downgrading of our policing and security capability at a time when cross-border crime and security threats are increasing.”

Scottish Parliament, 2019²¹

The UK Government's position has also been that no deal would have a negative impact on law enforcement.

During an [evidence session with the Justice Committee on 6 September 2018](#) the then Secretary State for Scotland, David Mundell, stated in relation to a law enforcement deal that:

“ I am not going to suggest that not reaching an agreement on that would be anything other than suboptimal.”

The UK Government's November 2018 document, "[EU Exit: Assessment of the security partnership](#)" also noted that:

“ In a no deal scenario, law enforcement and supervisory cooperation through formal EU channels would stop. Limiting access to financial data for law enforcement would have an adverse impact on efforts to detect suspicious financial activity, recover criminal assets and prosecute cross-border money laundering and terrorist financing crimes.”

For more details on the impact of no deal on specific law enforcement measures in Scotland (e.g. extradition, data-sharing, Europol etc.) see [the Justice Committee's report on the impact of Brexit on the civil and criminal justice systems and policing in Scotland](#) .

Action taken

EU

There is limited public information on action planned by the EU in the event of a no deal. In addition, [much of the EU's operational planning in this area takes place at the level of the Member States](#) and varies from country to country, whilst not necessarily being easily accessible to a non-native audience.

However, in December 2018, the European Commission published [papers from a seminar on "Brexit Preparedness"](#). These outline EU work on the mapping of areas affected by Brexit and fall-back measures which could apply if there was no deal (for example the use of Interpol notices to share information on criminals). They stress though that "the aim of contingency is not to replicate [the] status quo."

For more information on contingency measures taken by the EU and certain Member States see the [House of Commons Library's briefing on EU preparations for a no-deal Brexit](#).

UK

The UK cannot unilaterally recreate the EU system as, if there is no deal, it will immediately become a "third country" in EU terms. In February 2019, there was [an attempt by the then Home Secretary, Sajid Javid to convince the EU to sign up to mini law enforcement deals to minimise disruption](#), but [the EU has not accepted this proposal](#).

Although the UK Government appears to have carried out confidential planning for no deal (see section on Scotland below), there is currently limited public information on this matter. The reporting by the *Sunday Times* on the leaked Operation Yellowhammer report does not contain details of contingency action taken. The then Secretary of State for Scotland, David Mundell, indicated to the Justice Committee on 6 September 2018 that the UK Government was preparing a "technical notice" outlining contingency action in this area. However, at the time of publication of this briefing, no technical notice would appear to have been published.

The UK Government has passed statutory instruments designed to make the law function in the event of a no deal. This includes the [Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019](#) which makes changes to extradition law so that the UK can use the 1957 Council of Europe Convention for EU cases rather than the European Arrest Warrant. The Justice Committee considered the devolved aspects of this regulation and was content for the Scottish Government to give its consent for the regulations to be laid in the UK Parliament, (see the Justice Committee's report entitled "[What a 'no deal' Brexit](#)

[means for civil and criminal law in Scotland - a summary of subordinate legislation considered by the Justice Committee to date](#)" for more information).

Scotland

The UK Government controls the direction of the UK's involvement in EU justice policies. It is also responsible for the negotiations with the EU. It therefore has control over much of the contingency plans for a no-deal Brexit. However, given that much of justice policy is devolved (although not extradition, for example), the Scottish Government and Scottish justice agencies have a role in trying to mitigate some of the operational impacts of a no-deal Brexit.

As outlined in more detail in [the Justice Committee's report on the impact of Brexit on the civil and criminal justice systems and policing in Scotland](#), Scottish contingency measures include:

- Police Scotland focusing on building better bilateral ties with other national forces.
- The recruitment of extra staff by the Scottish Government to assist in its work relating to justice and Brexit and the formation of a Sub-Board of [the Justice Board](#) to look at readiness and planning for Brexit.
- Meetings between the Scottish Government and agencies and bodies such as Police Scotland to discuss contingency and workforce planning in the event of a no deal.
- Discussions between the Scottish Government and the UK Home Office and Ministry of Justice.

On 5 July 2019, [Police Scotland updated the Board of the Scottish Police Authority](#) to inform it of the reactivation of its Brexit contingency plans. This includes putting around 300 officers on standby to deal with any incidents that might arise, such as disruption at ports.

More recently, [the BBC reported on 18 August 2019](#) that Police Scotland had spent £7m on Brexit contingency planning. The BBC report stated that:

“ A separate delivery team is planning to ensure international investigations and intelligence-sharing are maintained post-Brexit. The number of officers working in the force's international bureau has been increased and arrangements made to exchange biometric data such as DNA, fingerprints and vehicle registration details with EU member states.”

The Scottish Police Authority discussed Brexit contingency planning during a Board meeting held on 21 August 2019. [A report drawn up for that meeting](#) includes details on action taken. Action includes:

- An increase in resources to Police Scotland's International Bureau with the aim of being able to deal with an increase in international enquiries post Brexit.
- The setting up of a Devolved Administration Working Group with workshops being conducted in London, Edinburgh and Belfast.
- The circulation of draft no-deal contingency guidance to Police Scotland officers.

- Police Scotland securing membership of the Home Office International Criminality Board which is responsible for reviewing the methods in which UK Police conduct international investigations.
- Engaging with the Department for Exiting the European Union (DEXEU).

The report also states that the UK has carried out confidential no-deal planning, noting that:

“ UK Planning Assumptions have been released, with restrictions on their wider circulation. Scottish Government (SG) Risk and Assurance Team are working on the Scottish Planning Assumptions and Risk and Mitigations documents at present. It is anticipated that Police Scotland will have access to these mid-August.”

On 26 August 2019, [the Cabinet Secretary for Justice, Humza Yousaf, published a letter to the Convener of the Justice Committee](#) in response to the Justice Committee's report mentioned above. The letter outlines further Scottish contingency work including meetings of the Justice EU Sub-Board and meetings between the Scottish Government and the UK Government and the devolved administrations in Wales and Northern Ireland.

The Scottish Government has confirmed that Police Scotland is leading on multi-agency civil contingencies arrangements for Brexit. Plans are being developed to establish a multi-agency control centre at Bilston Glen to provide national co-ordination.

Agriculture and fisheries

In the lead up to 31 March 2019, the Scottish Government identified access to the EU Single Market, Common Agricultural Policy (CAP) payments and tariffs as some of the key issues for agriculture and fisheries in a no-deal Brexit. Since then:

- A level of access for the UK's animal products to the EU Single Market in a no-deal scenario was confirmed by the EU when the UK was due to withdraw on 12 April 2019.⁵⁵ For the same access to be granted from 31 October 2019, the UK will have to apply for and be granted third country listed status again. It is not clear whether this has happened.
- The funding and continuation of CAP payments with little change until 2020 has been confirmed.⁵⁶
- Tariffs on some animal product exports into the EU (for example red meats) and the associated administration for export remain a Scottish Government concern.
- The risk that the [proposed import tariff regime](#) may allow for cheaper imports of some products onto the Scottish market remains a Scottish Government concern.⁵⁷

In evidence to the Scottish Parliament's Rural Affairs Committee, the Cabinet Secretary for the Rural Economy, Fergus Ewing addressed concerns about getting goods to the EU market in the event of no-deal:

“ Therefore, the risks of a no-deal exit have not gone away. Our exports could be blocked due to tariff or non-tariff barriers and imports could rise thanks to import policies decided unilaterally in London, which could lead to price collapse in certain sectors. Before the immediate post-exit period, there are other serious risks: the risk that the UK Government will fail to replace all of Scotland’s EU funding and the risk that farmers, fish processors, growers, abattoirs and other businesses cannot get the labour that they need. There are things that the Scottish Government can do. For example, we are working tirelessly to minimise the impact of the new export certification that Brexit causes. However, many more things are outwith our control as a devolved Administration but have the potential to cause huge damage in rural Scotland. For example, customs delays at Dover could irreparably damage the export of live seafood. The UK Government has control over policy in regard to temporary workers and migrant labour. The permission for them to stay rests with London and, frankly, it is all a bit of a boorach. Very serious threats to rural Scotland remain, linked to agriculture and fisheries. We have tried our best and worked extremely hard across all officials and all Government directorates to prepare ourselves and the sectors for what might come. However, given the limited co-operation from the United Kingdom Government and the uncertainty that surrounds Brexit, I hope that members will support the Scottish Government as we work to achieve the least worst outcome from this unprecedented situation.”

Scottish Parliament, 2019⁵⁸

The Cabinet Secretary drew particular attention to the situation for the lamb sector, because one third of Scotch lamb is exported to European markets. The Cabinet Secretary told the Committee:

“ UK Government modelling estimated that the impact of the loss of that European market or being subject to a tariff of up to 40 or 50 per cent would cause a collapse in the price of up to 45 per cent and substantial lost revenue in a range between £54 million and £73 million.”

Scottish Parliament, 2019⁵⁸

In written correspondence, the Scottish Government has confirmed with SPICe, that the UK Government has given its commitment to be responsible for costs arising from a no-deal Brexit with respect to sheep farmers. The Scottish Government has also suggested that the UK Government should also commit to a similar compensation package for beef farmers affected by a no-deal Brexit.

In fisheries specifically, getting produce to market, along with the additional administration and certification required for export, is identified as a key short-term risk by the Scottish Government. On 6 March 2019, the Minister for Trade, Investment and Innovation, Ivan McKee, told the Scottish Parliament

“ Our seafood sector will be severely impacted by disruption at the port of Dover, which will jeopardise the just-in-time nature of the seafood supply chain. The sector will also be required to comply with a range of administrative burdens, including the requirement for export health certificates for all seafood consignments that are exported to the European Union. We anticipate at least a fourfold increase in the requirement for export health certificates, with a potential additional cost to the industry of more than £15 million per year.”

Scottish Parliament, 2019²²

As well as [export health certificates \(and other paperwork\)](#) for animal and animal product exports, most fish and fish products will [require a catch certificate](#) either for import or export between the UK and EU.⁵⁹ A recent [SPICe blog examined the requirement for vets to certify the exports of live animals and animal products](#). The blog set out how a no-deal Brexit would lead to increased work in certifying animal exports:

“Exports of animal products outside of the EU require an Export Health Certificate (EHC). EHCs prove that animal products meet the quality and health standards of the destination country. Each EHC must be signed by an Official Veterinarian. Currently, animal products traded within the EU do not currently require EHCs because EU law ensures common health and quality standards across all 28 Member States. However, in the event of a no-deal Brexit, all exports of animal products from the UK to the EU would require an EHC.”

Davies, 2019⁶⁰

A significant increase in post-Brexit paperwork would be likely to lead to delays in exporting goods and increase pressure on an already strained vet workforce. A possible solution being explored by the UK Government is using non-qualified staff to carry out parts of the export health certification process⁶¹.

A further issue for the fisheries sector is the timing of the departure from the EU which would fall in the middle of the EU fisheries negotiations. The Cabinet Secretary for the Rural Economy and Connectivity explained to the Rural Economy Committee:

“If a no-deal Brexit occurred on 31 October, that would be in the thick of the fisheries negotiations—the bilaterals or trilaterals with Norway, Iceland and the Faroes. All those negotiations come to a close at that time, so deferring the deadline to 31 October has added new complexity. If we are out of the EU on a no-deal basis, we will not be at the table in Brussels for the fisheries negotiations in December, which means that we will have no voice in the determination of total allowable catches and quotas. The UK will not be at the table—Scotland is not at the table in her own right anyway, but we will be unable to play a part in the UK delegation, which I have sought to do constructively for the past three months.”

Scottish Parliament, 2019⁵⁸

Other risks identified by the Scottish Government include the availability of labour within the industry, for example seasonal migrant workers in the horticulture industry or veterinary staff in Scottish abattoirs.⁶²

Action taken

Trade issues are reserved to the the UK Government. However many of the issues that may cause disruption immediately following a no-deal Brexit also depend on the rules adopted by the EU in a no-deal scenario and actions taken by other countries at the border with the UK.

In March 2019, the Minister for Trade, Investment and Innovation, Ivan McKee, told Parliament that:

“The Scottish Government continues to press the Department for Environment, Food and Rural Affairs on our proposals for controlling imports to and exports from the UK.”

Scottish Parliament, 2019²²

On the likely increase in demand for export health certificates for exporting animals and animal products to the EU, the Scottish Government stated:

“ We have worked with local authorities to have a contingency plan for export health certificates, which are dealt with by environmental health officers, to deal with a four-fold increase in workload, and we have undertaken other measures to ensure that information is passed out to all processors, so far as we have it. ”

Scottish Parliament, 2019⁶³

In correspondence with SPICe, the Scottish Government has raised concerns that the UK will not have managed to negotiate third country equivalence for certification of seed and other propagating material and for derogations on plant health issues concerned with seed and ware potatoes by exit day. This is because the European Commission has indicated it would not be considering the UK application until the outcomes of the UK's withdrawal from the EU have been agreed. As a result, the Scottish Government is working on the basis that the UK will not have third country equivalence by exit day. Defra, on behalf of the UK, is planning to resubmit the UK application for third country equivalence and associated plant health derogations when withdrawal negotiations are complete.

The Scottish Government is also disseminating information to businesses and other stakeholders on what they may need to do to prepare to mitigate disruption in a no-deal Brexit.

Environment

The Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham set out the Scottish Government's views about the key environmental risks of no-deal when she gave evidence to the Scottish Parliament's Environment, Climate Change and Land Reform Committee on 4 December 2018. The Cabinet Secretary told the Committee:

“ We have a number of concerns about our day 1 readiness in the event of there being no deal. We have tried to map the most significant concerns. For example, one concern relates to waste shipment. There is a risk that a no-deal exit and new customs controls could stop or slow down waste shipments. We would see the implications of that waste backing up here quite quickly. Another issue relates to chemicals regulation. We want to avoid barriers to trade and ensure that we have an effective regulatory system. We would not have that system in place at the point of there being no deal, and there are real issues about unsafe materials entering Scotland. I have raised with DEFRA—I did so at the most recent DEFRA devolved Administrations meeting—the cross-cutting trade and customs rules. I appreciate that the decisions on those issues are not all being made by DEFRA itself, because it, too, has some concerns about what would emerge around freight transport and shipping in the event of there being no deal. I raised that issue at the DEFRA DA meeting in Cardiff some weeks ago, and I notice that some stuff that appears to have come out of a Cabinet conversation around that very issue is now in the public domain. Those matters would obviously impact on us, too, including in relation to waste shipments and the import and export of chemicals. The issue is around protecting supply chains and ensuring that imports and exports can continue in the event of a no-deal exit. Those are the key things that we have considered. I will not pretend that that is an exhaustive list, but we are trying to prioritise the issues that would be impacted most quickly. I have outlined the areas of concern in my portfolio, and I think that food is perhaps the main issue in the other portfolio. Another issue involves ensuring the enforcement powers of public bodies on day 1. Some issues have arisen in respect of water, which I think have been fairly widely rehearsed in the press. They have to do with the way in which we treat water at the moment and the chemicals that are required to do that. I do not pretend to be an expert on that but, as I understand it, the process is dependent on chemicals being imported from the EU. That brings us back to chemicals and the ability to get stuff in on day 1. Those are the issues that we must think about in terms of ensuring that we are ready on day 1. In some cases, a bit of stockpiling can go on. Scottish Water can hold several weeks of key supplies, so that might be an answer in some places, but it will not necessarily be an answer if we cannot get waste shipped to where it normally goes. If that happens, it will begin to pile up in Scotland. Those are all the things that we are struggling with in relation to a no-deal exit.”

Scottish Parliament, 2018⁶⁴

On 29th August 2019, the Brexit Civil Society Alliance sent an [open letter](#), signed by over 85 civil society organisations, to the Prime Minister expressing concerns about the impacts of a no-deal Brexit. Signatories include Scottish Environment LINK, a network of Scottish environmental organisations. The letter states that there is not enough time (if the UK leaves the EU without a deal on 31st October) to replace EU agencies that monitor and ensure compliance with the law, potentially resulting in food standards, environmental and animal welfare regulations not being sufficiently enforced ⁶⁵.

Action Taken

In April 2019, following further no-deal planning, the Cabinet Secretary identified chemicals, waste, water and the EU ETS issue as the “four key areas” that have impacted on Scotland in no deal planning in her portfolio.

EU ETS

The UK Government has published [no deal guidance for the electricity sector](#), which covers the EU ETS.

If the UK leaves the EU without a deal, current participants in the EU ETS who are operators of UK installations will no longer take part in the system. Securing a linking agreement with the EU for a linked UK ETS has been the preferred option of the UK Government. However, for the event of no deal, the Government said that “alternative carbon pricing options must also be considered.”⁶⁶

Chemicals – REACH

Chemicals regulation currently takes place largely at EU level and one of the central systems is EU REACH (the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation). If the UK leaves the EU without a deal, the EU REACH regulations will be brought into UK law to create ‘UK REACH’, which the Health and Safety Executive has been developing. The UK Government has [published guidance](#) on this post-Brexit approach.

The recently published [EU Exit Select Committee report](#) highlighted the likely significant disruption to chemicals industries associated with no deal:

“ The success of the UK’s chemical and pharmaceutical sectors rests on highly-integrated just-in-time supply chains. A disorderly no deal would disrupt these supply chains overnight.... For the chemical industry, which is at the top of supply chains for numerous other sectors, disruption at the border will have profound consequences for UK manufacturing, with resulting costs to the UK economy. Under no deal, chemical and pharmaceutical companies operating in the UK will be cut off from EU regulatory systems and databases, which protect the environment and patient safety. Companies operating in both markets will need to register chemicals or seek marketing approvals for drugs twice, in the UK and the EU, an expensive and bureaucratic process that will reduce the attractiveness of doing business in the UK. Chemical companies will need to undertake new commercial negotiations with competitors to secure data needed to register chemicals.”

UK Parliament, 2019⁶⁷

The REACH Regulations establishing UK REACH have been controversial and subject to considerable Committee scrutiny at Holyrood and Westminster. The Scottish Government said in April that whilst it considers that issues with retained legislation have been addressed to the best of its understanding, it is not fully confident that the regulations are fit for purpose⁶⁸.

Waste

The risks from a no-deal exit in relation to waste are principally about disruption to exports, especially potential delays and disruptions at ports, with implications for waste storage.

The UK government is reminding companies which export waste from the UK to [review their contingency plans in case of disruption at ports, should the UK leave the European Union without a deal](#). The UK Government has worked to ensure that in a no deal scenario, all existing consents which authorise the export of hazardous waste, known as ‘notified waste’, to any EU country will remain valid when the UK leaves the EU. Companies that export waste from the UK will see no change in the processes that govern

the export of 'non-notified waste' ('green-list' wastes) to the EU. However, in the event of no deal, changes to border controls may impact on some waste exports.

Financing no-deal contingencies

In the lead up to 31 March 2019 deadline, the Cabinet Secretary for Government Business and Constitutional Relations told the Scottish Parliament:

“ Across the Scottish Government, we are aligning our existing financial and staff resources towards those areas with specific no-deal impacts, and we are ensuring that we have the right people with the right skills in the right places to respond quickly and effectively.”

“ Across the public sector, resources are being directed to essential preparations. A decision to remain in the EU would allow those resources to be returned to the support of front-line services and the delivery of Scotland’s priorities. Our basic principle is this: the Scottish Government believes that any costs relating to EU exit that are incurred by public bodies—be they in Government, local government or the public sector—should not have a detrimental impact on Scotland’s public finances.”

Scottish Parliament, 2019²¹

In 2018-19, the Scottish Government received £37.3 million in funding as a result of additional UK Government spending on Brexit preparations. £27.0 million of this was allocated to Scottish Government portfolios for specific Brexit related activity. [Allocations at a portfolio level are available](#) ⁶⁹ but a full cost breakdown is not. ⁷⁰

2019-20 budget

An additional £94.4 million will be available in the current financial year (2019-20) as a result of EU Exit funding from HM Treasury.

On 27 July 2019, the Scottish Government confirmed that:

The Scottish Government will receive £54.7 million consequentials (£48.8 million resource and £5.9 million capital) as a result of the UK Government allocating £2 billion of EU Exit preparation funding for 2019-20.

All Portfolios have benefited from the £54.7 million EU Exit funding consequentials being allocated via the 2019-20 Scottish Budget; these are fully absorbed in supporting work already underway, including EU exit preparation. These funds are not separately identifiable. ⁷¹

On 31 July 2019, the newly-appointed Chancellor, Sajid Javid MP announced further allocations of funding for UK Government departments. ⁷² The Chancellor confirmed that £1.1 billion has been allocated to prepare critical areas for ‘No Deal’. This will be for border and customs operations, critical medical supplies, support for UK nationals abroad, and an awareness campaign for the public and businesses.

As a result of this, the Scottish Government is expected to receive Barnett consequentials of £39.7 in 2019-20. This additional budget is not necessarily ring-fenced for no-deal preparations.

Approximately £90 million of this £1.1 billion pot has been set aside for further business readiness. This will be allocated to departments and Scotland will receive a Barnett share where appropriate.

The Chancellor's announcement also confirmed that of the £2.1 billion, HM Treasury have set aside £1 billion of this funding as an 'operational contingency fund' to provide further no deal preparation support. The Scottish Government will be able to bid for this funding where it can demonstrate it faces "disproportionate" costs to Scotland.

Civil Contingencies Act

In an emergency that threatens serious damage to human welfare, the environment or the security of the UK, the Civil Contingencies Act 2004 provides the Government with powers to create emergency regulations to deal with the situation.

In the lead up to the 29 March 2019 deadline, the National Audit Office reported that:

“ Yellowhammer contingency plans do not envisage using the Civil Contingencies Act 2004, which allows government to make special temporary legislation as a measure of last resort... plans can operate successfully within the current legislative framework.”

National Audit Office, 2019⁷³

Further information on the Civil Contingencies Act 2004 is available from:

- House of Lords Library briefing [Civil Contingencies, Emergency Powers and No-Deal Brexit](#)
- The Improvement Service briefing [Civil contingencies and emergency preparedness](#)

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