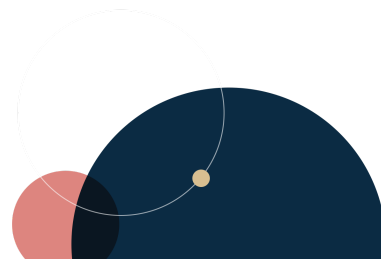


# "Brexit:" Consequences for Compliance with EU Chemicals Law

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## Overview

***The full impact of today's referendum result depends upon the outcome of exit negotiations which the UK must formally initiate under Article 50 of the Treaty on European Union. It is already clear that companies – established in the EU or not – must develop a proactive commercial and regulatory strategy to deal with the UK's announced departure.***

### ***Companies Established in the UK***

Under the REACH Regulation, manufacturers and formulators of chemical substances who are established outside the EEA territory (EU member states plus Iceland, Liechtenstein and Norway) cannot directly perform compliance obligations relating to those substances.

However, a so-called "Only Representative" (OR), established in the EEA, may discharge such obligations which would otherwise fall on EU importers.

Many non-EEA companies have appointed an OR (corporate affiliates or independent representatives, such as Steptoe). These arrangements now need to be re-assessed, since companies established in the UK will probably not be able to act as an OR. If the UK joins the EEA agreement the OR option would remain, but many companies will consider that a "defensive" switch of their OR to a non-UK based entity is now necessary.

Under the Biocidal Products Regulation, ECHA has developed a system of representatives for non-EU companies who are included in the Article 95 list of substances and suppliers (though these representatives do not formally take on obligations of non-EU suppliers). UK-based Article 95 representatives would probably also have to be replaced after a UK exit.

### ***Contractual Arrangements***

Many UK-based companies have been actively involved in leading industry efforts to comply with various obligations under EU chemicals law – be it under various chapters of REACH, biocides, plant protection products (agrochemicals), food or food contact regulations.

Contractual arrangements between UK-based companies and other companies will have to be re-assessed, since it is unlikely that the UK-based companies will be able to continue in their role of providing EU regulatory compliance solutions.

### ***UK Acting as Evaluating Member State***

The UK is currently acting as an evaluating Member State authority under EU chemicals regimes, including:

- Biocides and plant protection products
- REACH (substance evaluation, SVHCs, and restrictions)

Where the UK's work has not been completed in these areas - on the date of the formal UK exit – work will have to be reallocated to other Member States or discontinued.

The extent of the impact will depend, in part, on whether the UK negotiates (i) membership of the EEA (like Iceland, Liechtenstein and Norway), (ii) a bilateral agreement, or (iii) simply relies on World Trade Organization (WTO) membership rights. All three scenarios have been modeled by the UK government.

It is imperative that companies do not wait, and perform the assessments relevant for their business now.

To discuss these issues, please contact a member of Steptoe's Environment and Life Sciences team.

## **Practices Chemicals**

## **Chemicals & Environment**