

**A high
standards UK:
horizon-
scanning**

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Standards post-Brexit: where are we?

- › The government says it is committed to setting high standards at home and globally post-Brexit.
- › Under the terms of the UK-EU trade agreement, the UK has committed to certain ‘level playing field’ provisions on domestic standards on labour rights and the environment.
- › At the same time, it has also stepped up plans for its deregulatory agenda, including:
 - › A new ‘Brexit Freedoms’ bill
 - › A review of retained EU law
 - › A minister for ‘Brexit opportunities’

The government says it wants to uphold standards

The government suggests it wants to set high standards at home and globally. In some areas there has been progress (or signs of progress):

- › Environment Act has created new framework for environmental targets and established the Office for Environmental Protection to monitor and enforce implementation of environmental law.
- › Improved standards on animal welfare, including proposed ban on live animal exports for fattening and slaughter.
- › Employment Bill originally intended to ‘protect and enhance’ workers’ rights post-Brexit and create new single enforcement body, but has been majorly delayed.

The UK is obliged to uphold certain standards

The UK-EU Trade and Cooperation Agreement includes non-regression clauses for labour and environmental standards.

How does the non-regression clause work?

The UK and the EU have committed to a non-regression clause to maintain current worker protections.

There will be a breach of the clause if either side:



reduces worker protections below the levels in place at the end of 2020

AND



the worker protections are within the scope of the agreement

AND



this affects trade or investment between the UK and the EU.

The UK is also under pressure to keep pace on standards

The UK-EU Trade and Cooperation Agreement also includes a 'rebalancing clause' to manage significant divergences in standards.

How does the rebalancing clause work?

The UK and the EU have committed to a rebalancing clause to allow either side to respond if there are significant divergences in standards over time.

In the case of workers' rights, rebalancing measures can be taken if:



there are significant divergences in labour and social protection between the UK and the EU

AND



this has a material impact on trade or investment between the UK and the EU

AND



the assessment of these impacts is based on reliable evidence and not merely conjecture

AND



the scope and length of rebalancing measures are necessary and proportionate for remedying the situation.

But the government wants radical reform to regulations

- › The government has outlined a new ‘proportionality’ principle to ensure regulations are proportionate to level of risk and outcomes they are trying to achieve.
- › The intention is to encourage an ‘outcome-focused, experimental’ approach to regulation.
- › The government intends to diverge from the EU ‘strategically’ in order to give businesses a competitive advantage.
- › A review is underway into the status and substance of retained EU law, alongside a government target to cut £1 billion of business costs by reforming this legislation.

The government's strategic priorities are unclear

- › On the substance of regulatory reform, there is an eclectic mix of priorities, including:
 - › Data and AI (eg new data protection regime)
 - › Infrastructure and levelling up (eg freeports)
 - › Climate, the environment and agriculture (eg reforms to gene editing)
- › In other areas, the UK appears to be falling behind the EU – eg on improving conditions on platform work and promoting collective bargaining.

But it wants more powers to amend retained EU law

- › A new 'Brexit Freedoms' bill intends to focus on the status of retained EU law.
- › Full details have not been published, but the indications from government are that it will include:
 - › New powers to easily amend or repeal retained EU law
 - › Removal of the special status of retained direct principal EU legislation
 - › End of supremacy of retained EU law over pre-exit domestic law
- › These changes could make it easier for the government to weaken domestic standards without proper parliamentary oversight.