Meeting the Legal Information Challenge of EU Exit

Matthew Bell
Head of Legislation Services
THE OFFICIAL HOME OF REVISED
ENACTED UK LEGISLATION
1267-PRESENT
CHANGES OVER TIME
The National Archives

The Legislation Services Team at The National Archives:

1. **Maintains and Operates** legislation.gov.uk, the official public source of UK legislation

2. **Supports legislation drafters**, providing drafting tools and templates, registering new secondary legislation, and a publishing system for all new UK legislation

3. **Produces revised legislation**, updating all Primary (and increasingly secondary) legislation from across the UK,
How EU Legislation Currently Applies to the UK

Matthew Bell
European Communities Act 1972

1972 CHAPTER 68

An Act to make provision in connection with the enlargement of the European Communities to include the United Kingdom, together with (for certain purposes) the Channel Islands, the Isle of Man and Gibraltar.

[17th October 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—
UK implementing legislation

Statutory Instruments and Statutory Rules

S.2(1)

S.2(2)

ECA 1972

Treaties

Directives

Regulations

Decisions

Tertiary Legislation

Directly Applicable European Legislation

Other Acts

UK

S

W

NI
s.1 The European Communities Act 1972 is repealed on exit day.
Statutory Instruments and Statutory Rules

UK implementing legislation

UK
S
W
NI

EUWA 2018

S.1

EC

S.2(2)

S.2(1)

Other Acts

Treaties

Directives

Decisions

Directly Applicable European Legislation

Tertiary Legislation

Statutory Instruments and Statutory Rules

Other Acts

Direcly Applicable European Legislation

Tertiary Legislation

The National Archives
The diagram illustrates the relationship between EUWA 2018 (EU Water Framework Directive) and UK implementing legislation. It categorizes legislation into Treaties, Directives, Regulations, Decisions, and Tertiary Legislation. EUWA 2018 is directly applicable European legislation, and it is implemented in the UK through Statutory Instruments and Statutory Rules, which are further subdivided into UK, S, W, and NI (Scotland, Wales, and Northern Ireland). Other Acts are also mentioned as part of the legislative landscape.
Current EU Reg.  

Ex-EU Reg.  

Ex-EU Reg.  

UK Amendement

EU Amendement

EUR-Lex

EUR-Lex

Post Exit
European Union (Withdrawal) Act, Sch. 5 para.1

(1) The Queen’s printer must make arrangements for the publication of—

(a) each relevant instrument that has been published before exit day by an EU entity, and

(b) the relevant international agreements.

(2) In this paragraph—

“relevant instrument” means—

(a) an EU regulation,

(b) an EU decision, and

(c) EU tertiary legislation; and

“relevant international agreements” means—

(a) the Treaty on European Union,

(b) the Treaty on the Functioning of the European Union,

(c) the Euratom Treaty, and

(d) the EEA agreement.
European Union (Withdrawal) Act, Sch. 5 para.1

(3) The Queen’s printer may make arrangements for the publication of—
   (a) any decision of, or expression of opinion by, the European Court, or
   (b) any other document published by an EU entity.

(4) The Queen’s printer may make arrangements for the publication of anything which the Queen’s printer considers may be useful in connection with anything published under this paragraph.

(5) This paragraph does not require the publication of—
   (a) anything repealed before exit day, or
   (b) any modifications made on or after exit day.
Objectives

1. **Support departments** in their preparation and policy making, including legislating pre- and post-exit

2. **Fulfil the Queen’s Printer’s new duties**, ensuring he meets his obligations for publishing the retained EU law as currently set out in the EU (Withdrawal) Act 2018

3. **Aid legal certainty**, post-exit, with up-to-date content on legislation.gov.uk, for service users and data re-users
The Plan
Deciding what to publish

• What is a Regulation? Not as easy as you’d think!
• There are many 100,000s of documents
• EU legislation data can be accessed either via EUR-Lex API or the CELLAR via SPARQL
• 6 methods of categorising EU documents, all giving different document totals
• The categories are not consistent, and 1 document can be given more than one classification
• At least 16 flavours of “Regulation”
• What is “Tertiary” legislation?
### What we are publishing where

<table>
<thead>
<tr>
<th><strong>legislation.gov.uk</strong></th>
<th><strong>EUR-Lex web archive</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Narrow selection to “tell the story of EU Exit” in a useful way</td>
<td>Broad selection to fulfil statutory obligations</td>
</tr>
<tr>
<td>Only documents which are classified as legislation, plus the Treaties specified in the European Union (Withdrawal) Act 2018</td>
<td>All documents within relevant EUR-Lex sectors, including legislation, in English, French and German (irrelevant sectors include case law reports from EU countries, or parliamentary questions)</td>
</tr>
<tr>
<td>Only legislation documents which are relevant to the UK**</td>
<td>Full text of every page of the Official Journal, in English</td>
</tr>
<tr>
<td>Only documents which are available in English, and in formats that our publishing process can support – XML or PDF.</td>
<td>HTML and PDF copies of the Official Journal, in English, French and German</td>
</tr>
</tbody>
</table>
Publishing EU Legislation on legislation.gov.uk – Capture and Conversion

Jim Mangiafico
Publishing EU legislation in the UK

Our goal was to import EU legislation into the UK editorial and publishing system.

This will give us not only all of the functionality available on legislation.gov.uk, such as conversion to HTML and search.

It will also allow us to revise legislation, showing the effects of amendments. And “retained” EU legislation will soon be amended by the UK Parliament.

We copied metadata, PDFs, and XML. And we had to transform the XML from Formex into the Crown Legislation Markup Language.
Transforming Formex into CLML

Sometimes we could use an equivalent element:

- `<HT TYPE='ITALIC'>` maps to `<Emphasis>`
- `<ARTICLE>` maps to `<P1>`

Sometimes we had nothing similar and simply had to create a new element:

- `<MultilineTitle>`
- preambles with structure

Sometimes we modified an existing element to be more flexible:

- We used the UK `<Schedule>` element to represent EU `<ANNEX>`s
Some challenges

Modifications in consolidated acts
  • Formex uses processing instructions to mark differences between versions of the same document. CLML uses XML elements.

Mathematical equations
  • Formex uses proprietary elements. CLML uses MathML.

Repeals
  • legislation.gov.uk requires a revised version of all repealed documents.
The biggest challenge: schema flexibility

Every xml schema is a balance of constraint and flexibility.

• Too much flexibility and the data is less useful; not enough and authors cannot express themselves well.

Formex is relatively flexible, at least compared to CLML.
PART III
DISEASE AWARENESS, PREPAREDNESS AND CONTROL

TITLE I
DISEASE AWARENESS AND PREPAREDNESS

CHAPTER 1
Contingency plans and simulation exercises

Article 43
Contingency plans
PART I
PART HEADING

CHAPTER 1
CHAPTER HEADING

...
Annex structures

1. Support to the verification technologies and monitoring system

Project 1: Improving sustainment of targeted certified IMS Auxiliary Seismic (AS) stations

Background

The main focus will be to continue addressing AS stations which need urgent maintenance action specifically those located in countries facing financial hardship including when geographical density of AS stations in operations is poor in regions of interest, while proceeding with preventive maintenance. This is done by addressing equipment obsolescence, and upgrades as well as improvement of equipment sparing.

As in previous programs, there is a need for a full-time dedicated staff to plan and execute work projects at the relevant AS stations as well as funds for spare parts and travel.

Objectives

The principal objective is to bring target AS stations to a technical level compatible with the IMS requirements in a sustainable manner. AS stations are the backbone of the IMS seismic infrastructure and need continuing maintenance.
More annex structures

ANNEX IIIA

VERIFYING REAL DRIVING EMISSIONS

1. INTRODUCTION, DEFINITIONS AND ABBREVIATIONS

1.1. Introduction

This Annex describes the procedure to verify the Real Driving Emissions (RDE) performance of light passenger and commercial vehicles.

1.2. Definitions

1.2.1. “Accuracy” means the deviation between a measured or calculated value and a traceable reference value.
A new Division element

<Division>
    <Number></Number>
    <Title></Title>
    <Division>
        <Number></Number>
        <P></P>
    </Division>
</Division>
A word about open data

Those of us who publish open data hope that by following sound principles we can enable future applications that we cannot foresee.

In this case, we were able to do everything we’ve done exclusively with data obtained from documented, public APIs.
Legal Certainty – Meeting User Needs
We know our users

Non-law Professional: “I need to know I’m still compliant with the law if it changes.”

Member of the Public: “It's so confusing, I don’t know what I don’t know!”

Law Professional: “I need to know the full legal picture”
How do I find EU Law now?

Does this law apply to me?

I thought we’d left, what is this?

Is this law in force?

What is Retained EU law?

Is this law up to date?

Why Can’t I just use EUR-Lex?
Benefits: improved navigation, table of contents
Benefits: flexible reading levels (for Articles, Chapters, Annexes, whole document etc)

Regulation (EC) No 1166/2008 of the European Parliament and of the Council of 19 November...
2008 No. 1166 • CHAPTER I • Article 2

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘agricultural holding’ or ‘holding’ means a single unit, both technically and economically, which has a single management and which undertakes agricultural activities listed in Annex I within the economic territory of the European Union, either as its primary or secondary activity;

(b) ‘livestock unit’ means a standard measurement unit that allows the aggregation of the various categories of livestock in order to enable them to be compared. Livestock units are defined on the basis of the feed requirements of the individual animal categories, for which the coefficients shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15(2);
Amendments marked in text with annotations giving authority for the amendment
Benefits: flexible paginated content for easy printing and reading

REGULATIONS


CHAPTER I
GENERAL PROVISIONS

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘agricultural holding’ or ‘holding’ means a single unit, both technically and economically, which has a single management and which undertakes agricultural activities listed in Annex I within the economic territory of the European Union, either as its primary or secondary activity;

(b) ‘livestock unit’ means a standard measurement unit that allows the aggregation of the various categories of livestock in order to enable them to be compared. Livestock units are defined on the basis of the feed requirements of the individual animal categories, for which the coefficients shall be adopted in accordance with the regulatory procedure.
Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

<table>
<thead>
<tr>
<th>Table of contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
</tr>
<tr>
<td>CHAPTER I General provisions</td>
</tr>
<tr>
<td>Article 1 Subject-matter and objectives</td>
</tr>
<tr>
<td>Article 2 Material scope</td>
</tr>
</tbody>
</table>
Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

2 Principles relating to processing of personal data

(1) This Regulation applies to the \( T \) storage and \( T \) processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

(2) This Regulation does not apply to the processing of personal data:

(a) in the course of an activity which falls outside the scope of Union law;
Article 2
Material scope

personal data shall be adapted to the principles and rules of this Regulation in accordance with Article 98.

[M1] (5) Member States shall inform the Commission of the data submitted on the basis of this Article

Changes made by EU legislation during the transition period (29th March 2019 - 31 December 2020)


Changes made by EU legislation prior to EU exit day (29th March 2019)

[F1] Words in reg. 2 (1) inserted (01.09.2018) by Machine Games Duty (Amendment) (EU Exit) Regulations 2018, reg. 4 (c)

Meeting the Legal Information Challenge of EU Exit

Matthew Bell
Head of Legislation Services