



Office for Product
Safety & Standards

OPSS Brexit Update

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Engagement

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OPSS Update



The Office for Product Safety and Standards

The **Office for Product Safety and Standards** was launched in January 2018 in response to recommendations made by the Government established Working Group on Product Recalls and Safety.

We were created to provide **dedicated national capacity for product safety** while taking forward work on **supporting small business growth** and implementing the Industrial Strategy vision of **simplifying regulation**.

We are a Departmental Office within the Department for Business, Energy and Industrial Strategy (BEIS)

Regulation as an enabler

Regulation is a powerful tool of Government – a means to address market failures, control harm and promote positive action.

Designed and delivered well, regulation can be an enabler of growth, innovation and productivity, protect life and health and support long term social and economic goals.

“We must ensure that our approach to regulation responds to changing needs. This can only be achieved through determined action and a shared commitment to doing the things that matter, that drive change and that improve outcomes.”

**Kelly Tolhurst, Minister for
Small Business, Consumers and
Corporate Responsibility**



Our responsibilities

OPSS is responsible for **policy and legislation** on consumer product safety, (excluding vehicles, food and medicines), legal metrology, hallmarking, Primary Authority, the Growth Duty and the Regulators' Code.

We lead work on **standards and accreditation** policy, working with the British Standards Institution (BSI) and the United Kingdom Accreditation Service (UKAS).

We act as an enforcement authority in a number of areas of **technical regulation**, for example, ecolabelling, sustainable timber and conflict minerals, as well as product safety and market surveillance for weights and measures. This includes activity on behalf of other government departments, from whom we recover costs.

We are shaping and delivering an effective framework for product safety and legal metrology regulation and an operational strategy for product safety at the border, **post EU Exit**, which will protect people and enable UK businesses to thrive.

We work at the front line through **engagement** with businesses, local and national regulators and consumers to improve regulatory protections and support compliant businesses.

We support economic development and growth in key partner countries and provide opportunities that enable UK business **to trade and invest**.

Leading our teams



Chief Executive
Graham Russell

Policy and Engagement Sarah Smith	EU Exit, Trade and International Rebecca Bradfield	Strategy and Resourcing Kate Fletcher	Delivery Duncan Johnson	National Capacity and Technical Services Will Creswell	Operational Borders Amy Newland
					
<ul style="list-style-type: none"> • Policy and Briefing • Stakeholder Engagement • Trading Standards Coordination • Standards and Accreditation • Business Engagement • Forward Action 	<ul style="list-style-type: none"> • EU Exit - domestic consequences • EU Exit – Future Economic Partnership • Trade (rest of world) • International 	<ul style="list-style-type: none"> • Connections • Digital and Technology • Organisational Policy • Assurance and Programme Management • Strategy • People and Management Support • Resource Management 	<ul style="list-style-type: none"> • Primary Authority • Local Regulatory Delivery • Processing • Enforcement • Product Safety Enforcement • Utilities • Regulatory Delivery Model • Regulator Engagement • Legal Process 	<ul style="list-style-type: none"> • Intelligence • Risk • Scientific and Technical Advice • Technical Services • Consumer and Business Insight • Incident Management 	<ul style="list-style-type: none"> • Borders Policy • Borders Operations • Product Regulation Coordination • Analysis

Delivering the Industrial Strategy



The Industrial Strategy is the Government's long term plan to boost productivity and increase skilled jobs and earning power of individuals.

OPSS supports the Industrial Strategy aims of helping innovative businesses to succeed and simplifying local regulatory frameworks by:

Targeting Primary Authority and Local Regulatory Delivery work programmes towards sector deals and local industrial strategy priorities.

Developing a new approach to regulating product safety that enables innovation whilst maintaining safety through:

- scientific, technical, intelligence and risk based approaches to enforcement;
- policy development that is rooted in evidence and science;
- effective implementation through partnerships with business, trade associations and local regulators;

National Measurement Office (NMO) –

Commercial metrology and other technical services are provided to businesses to support the growth of UK engineering and manufacturing. Future income streams are dependent on the outcome of EU Exit negotiations.



We are...

Engaging

Meaningful engagement and effective partnerships with stakeholders sits at the heart of how we work – understanding our stakeholders, hearing their views and shaping our action in response to their views is critical for maximising impact and delivering our outcomes of protection and enabling businesses to thrive.

Who are our stakeholders?

- Business, business organisations and trade associations
 - Consumers and consumer bodies
 - Local authorities and related professional bodies
 - National regulators
 - National standards and accreditation bodies
 - Whitehall
 - Devolved administrations
 - International bodies
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EU Exit



Delivering EU Exit

OPSS is working to ensure the effective operability of the UK's product safety and metrology regime following the withdrawal from the EU.:

- From Day One after Exit, we will maintain the existing provisions ensuring safety and accuracy of products sold on the UK market to build business and consumer confidence in a fair market, while identifying opportunities to enhance the UK regime.
- OPSS has direct responsibility for c.50 directives and regulations and alongside this, we work with colleagues across BEIS and Whitehall on a number of cross cutting issues, including CE Marking and Notified Bodies. There are a number of ways we seek to do this, including via a Cross-Whitehall working group on goods and EU Exit.
- We are keen to use the current discussions to ensure that all the relevant issues about product safety are resolved in a way that is consistent with the UK's ambition for our future relationship with the EU
- We will ensure the UK continues to carry out appropriate risk-based and intelligence led border checks on imported products once the UK leaves the European Union.

Amending the Law

- Product Safety and Metrology EU Exit Statutory Instrument (<http://www.legislation.gov.uk/ukxi/2019/696/contents/made>)
- Ensures UK's rules on product safety and metrology (weights and measures) work smoothly following Brexit with **no reduction in safety, accuracy or consumer protections**
- Changes EU references to UK equivalents, and introduces new UK-based procedures which arise by virtue of exit and the UK no longer being a member state
- **38 domestic regulations** from toys to machinery, and broader legal frameworks for general product safety, conformity assessment, accreditation and market surveillance. **The safety and other technical requirements have not changed.**
- Common rules for standards, market surveillance and conformity assessment and accreditation including provision for a new UK marking and recognition of the CE marking by the UK, for a limited period
- All businesses potentially affected by EU Exit should check out the published guidance 'What's Changed'. (www.gov.uk/government/publications/uk-product-safety-and-metrology-guidance-in-a-no-deal-scenario)

Engaging with stakeholders

- **Supporting key stakeholders such as:**
 - Devolved Administrations
 - Trading Standards Authorities
 - Business Representative Organisations
 - Trade Associations
 - **Producing 19 online guides** to the changes, covering areas from toys to cosmetics, and from pyrotechnics to weights and measures. New guides will become available shortly – published on gov.uk
 - **Producing Technical Notices** such as the UK Conformity Assessment mark, the role of Authorised Representatives and Responsible Persons (specific to cosmetics), the arrangements for importers with regards to labelling requirements, and sector specific information. Go to <https://www.gov.uk/find-eu-exit-guidance-business>
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What's Changed?

We have published 'What's Changed' guidance, outlining the main differences between the new UK and previous EU regimes, and exactly what businesses and other stakeholders will need to do to prepare for the changes in case of No Deal.

Here are the key changes in the event of a no deal Brexit:

- Legislation has only altered those legal provisions that incorporated into UK law would not work when the UK leaves the EU. The changes made will create a functioning regulated UK market.
- The safety and other technical requirements remain the same.
- Goods lawfully placed on the EU market before the UK leaves the EU can continue to circulate in the UK
- Lawfully CE marked products will continue to be accepted by the UK for what is intended to be a time limited period. We have committed to consult on this with stakeholders

What's Changed? (continued)

- Products being placed on the UK market for the first time after the UK leaves the EU must meet the same technical requirements as now – but labelling or notification requirements may have changed
- There is a new UK Conformity Assessed marking (“UKCA”) which may be used for products to be placed on the UK market.
- The UK will continue to recognise EU Notified Body conformity assessments, intended to be for a time limited period so manufacturers and importers will still be able to place goods on the UK market lawfully bearing the CE marking where they have been assessed by an EU Notified Body (where required).
- The UK will publish a list of references to designated standards that will have the same function as harmonised standards and give presumption of conformity to legal requirements. On Exit Day, the designated standards will be the same as the harmonised standards.

Marking and labelling changes

- UKCA Mark will replace the CE marking for certain products and **will not be recognised** on the EU market
- In most cases the CE marking will continue to be recognised for a time limited period. Only products where mandatory conformity assessment is carried out by a UK Notified Body after Brexit need to use the UK marking immediately
- Manufacturers may still sell goods in the UK which have been assessed against EU regulatory requirements and CE marked
- Manufacturers who rely solely on a self-declaration of conformity can still use a CE marking based on self-declaration when selling in both the UK and EU markets
- More information is available on <https://www.gov.uk/guidance/prepare-to-use-the-ukca-mark-after-brexit>

Notified Bodies status and how to get UK approvals

- UK Notified Bodies **will automatically become UK Approved Bodies** to provide third party conformity assessment for goods to be placed on the UK market and be listed on a new UK database
- They will **not be able to provide third party conformity assessment** for goods to be placed on the EU market
- Its expected that UK Approved Bodies will no longer be listed on EU's NANDO database and will instead be listed on GOV.UK
- The UK will publish a list of references to designated standards that will have the same function as harmonised standards and give presumption of conformity to legal requirements. On Exit Day, the designated standards will be the same as the harmonised standards.

Changes for Importers

- Many UK businesses will need to apply the same procedures to EU trade that already apply with the rest of the world
- If importing from the EU, **check whether you are the importer in the UK**, as you may have **more responsibilities** for safety and correct labelling
- UK businesses who used to act as a 'distributor' will legally become 'importers' if they place products on the market from a country outside of the UK – including an EEA country
- There will be an 18-month transitional period (two years for cosmetics) for distributors to take on responsibilities in relation to labelling **but not for other responsibilities** such as checking manufacturers have carried out conformity assessments
- After a no deal Brexit, the requirements for **exporting** goods to EU countries will be different. Go to: <https://www.gov.uk/prepare-export-from-uk-after-brexit>

Metrology - Northern Ireland

- Legislation for weighing and measuring instruments for Northern Ireland will continue to mirror GB legislation
- Other weights and measures issues remain devolved, and neither Packaged Goods nor Specified Quantities fit into the specific weights and measures considerations
- New UK marking and recognition of the European 'CE' marking by the UK, includes Northern Ireland
- Further information can be found at <http://www.legislation.gov.uk/>

UKWF Concerns



Issues Highlighted by UKWF

- Correct to assume and plan for hard Brexit?
- Technical requirements in relation to the UK Mark
- CE Marking & Type Approval
- Trading Standards – Enforcement

UKCA Mark

Difficult to provide definitive advice in regard to future requirements as they are likely to be impacted by the nature of any deal that is agreed, as well as the terms of any future economic partnership. However, the current 'no-deal' requirements are set out below:

- UK business not trading in the EU27 can continue to use what would become a UK approved body. The material difference is that they would need to apply a UKCA mark
- The manufacturer will be able obtain these marks in the same way they currently do for CE marks
- UKCA marks should be attached to the product in a similar place to where the CE mark is currently placed
- UKCA marks should go on the instrument itself. It is not appropriate to only place the mark on the trade documents/box, even where space is limited. This may mean that the marking is not as directly visible as might otherwise be the case.

CE Marking and Type Approval

- Manufacturers can use a CE mark and an EU notified body in the UK for a "defined time period". After the defined time period manufacturers will need to have a UK approval and a UK "self-verification" approval
- EU type approvals issued by a UK Notified Body will automatically be recognised as a UK type approval and the validity of the certificate will remain active until the expiry date is reached. EU type approvals issued by an EU Notified Body will only remain active for first placing on the market until the defined period comes to an end
- Existing EU type approval should be able to be transitioned into UK type approvals based on a desktop evaluation of the technical documentation – which we anticipate will help manage the demands on the UK type approval infrastructure post Exit
- For the Declaration of Conformity, reference should be made to the BS version (designated) of the EN (harmonised standard)

Enforcement

- The statutory instruments that we have laid maintain the current powers and duties for local authority enforcement of legal metrology law
- OPSS is committed to keeping local authorities informed about the changes and have provided clear guidance on any legislative changes – including the provision of extensive training programmes
- Enforcement will continue to be split between OPSS and Trading Standards
- Trading standards have always had to deal with instruments placed on to the market under different pieces of legislation and consequently instruments with different markings
- Any specific issues will be dealt with by the BEIS Enforcement Liaison team and the meetings with the Expert Panel
- OPSS has brought Metrology market surveillance within the Product Enforcement Team, based in Birmingham and led by James Greenaway. We are undertaking market surveillance activity focusing on regulated instruments that are being placed on the market in the UK that have not undergone a conformity assessment procedure
- Keen for the expertise of the UKWF and its membership to inform MS activities moving forward

What's Changed guidance:

www.gov.uk/government/publications/uk-product-safety-and-metrology-guidance-in-a-no-deal-scenario

www.gov.uk/BREXIT

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