UKAS and BEIS Webinar Q&A

1. **The CE mark is documented in the publication but there is no mention of the pi (TPED) and Wheel mark (Marine Equipment). What is the intention for these two EU marks within the UK?**

For TPE: Since 1 January 2021, the rho mark replaces the pi mark for transportable pressure equipment being conformity assessed in Great Britain. To allow businesses time to adjust to the new requirements, pi-marked TPE which has been conformity assessed by an EU Notified Body can continue to be placed on the GB market for a minimum of 12 months. Subject to ministerial approval, we plan to run a consultation shortly to help inform a decision on whether this continued acceptance will extend to January 2023. When the standstill period ends, pi-marked TPE, which has been conformity assessed by an EU Notified Body, can no longer be placed on the market in GB. (DFT)

2. **Will tests carried out by European test labs be eligible for UKCA for existing products? For example, products on sale today that need to transition from CE to UKCA marking but were tested in Europe.**

Where mandatory third-party conformity assessment was required for CE marked goods, it is also required for UKCA marked goods. This conformity assessment needs to be carried out by a UK-recognised conformity assessment body in order to be marked with the UKCA marking. We encourage manufacturers to speak to their Conformity Assessment Bodies as soon as possible, to understand what their options are to arrange conformity assessment for UK and EU markets where needed. The terms of the Withdrawal Agreement allow you to request a transfer of information.

The UK Market Conformity Assessment Bodies (UKMCAB) database lists all bodies which can provide conformity assessment for the UK market. Please find a link to the database here: https://www.gov.uk/uk-market-conformity-assessment-bodies. (BEIS)

3. **An organisation that manufactures a product that is CE marked for export to the EU will have to engage an accredited NB from Europe to conduct the assessment and if the same organisation sells the same product within the UK it will need the UKNI mark. If the product is also sold to NI it will need both marks. For the organisation to issue the UKNI mark they will need to be accredited by UKAS and appointed. In other words, is it correct that this example would result in the organisation being assessed by UKAS for the UKNI mark, being assessed by the European NB and to manage the stamping of the product depending on where it is being delivered?**

If you are selling to the EU, you need a CE marking without a UKNI marking. If you want to place a good on the UK and EU markets, you will need to affix the CE marking and UKCA marking.

If the relevant EU regulation requires the manufacturer to use a Notified Body as part of the conformity assessment process, you will need to use an EU NB in order to affix the CE marking. This product can then be sold within the EU and in NI.

If the relevant UK regulation requires the manufacturer to use a Conformity Assessment Body as part of the conformity assessment process, you will need to use a UK Approved Body and then can place the UKCA marking on the product.

Please note, the CE marking gained from an EU NB will continue to be valid in GB until 31 December 2021, but businesses are encouraged to be ready for full implementation of the new UK regime as soon as possible after 1 January 2021.

The UKNI marking is required when a business is seeking to place a product on the market in Northern Ireland, in accordance with the EU rules that apply there, the relevant legislation requires mandatory third-party conformity assessment, and they wish to use a UK-based Notified Body to do so. In these particular circumstances the CE marking must be accompanied by the UKNI marking and these products are not valid in the EU. Under the terms of the Government's commitments to NI's 'unfettered access' to the rest of the UK, a Northern Ireland business can place qualifying goods on the market in Great Britain (England, Wales and Scotland) that have a CE or CE + UKNI marking and will not need to apply a UKCA marking. This is not time-limited.

Further guidance on applicable markings for the UK and EU markets can be found on gov.uk. (NEIS NI Team)

4. When will a decision be made on the correct requalification stickers to be used for Approved Bodies – e.g. when requalifying non-automatic weighing instruments? Currently we have been advised to continue to use the NB/xxxx/21 crown stickers but obviously this is out of alignment with the designation as an Approved Body. All we are told is the OPSS legal team are working on an opinion.

Legislation is required to make this change, and we are working on a suitable legislative option to introduce at the soonest opportunity and when Parliamentary time allows.

It is perfectly acceptable to continue to use the NB crown stickers in the meantime. The 4-digit NB number has been retained by Approved Bodies. (OPSS)

5. How can a French Notified Body get authorised for UKCA Mark as we already provide CE Mark.

The United Kingdom Accreditation Service (UKAS) is the sole National Accreditation Body for the United Kingdom. UKAS is recognised by government, to assess against internationally agreed standards, organisations that provide certification, testing, inspection

and calibration services. For more information on how to become a UK recognised accreditation body, please visit - https://www.ukas.com/about-us/contact-us/. (BEIS)

6. **I am currently being audited against EN1090 formally CE marking for structural steel work. Assuming we are only undertaking structural steel work in the UK and or NI, what will be the new mark we will be certificating to?**

If you previously required CE marking, you will require UKCA marking for placing your product on the GB market. The CE marking can continue to be used for products on the NI market if third party testing was carried out by an EU recognised body. (BEIS)

7. **In amending the CPR Regulation (EU) 305/2011, UK SI 465/2019 replaces EU terms with UK terms. In respect of Article 45 for subcontracting, the find & replace in Article 43 effectively restricts subcontracting to approved bodies established in the UK only, which is more restrictive than the original regulation; was this outcome intentional? Where a non-UK manufacturer would like to apply for UKCA assessment, it would be beneficial for UK approved bodies to work in partnership with accredited CABs in the manufacturer's own country. At present the UK SI prevents this. Comment please?**

The UK's approach mirrors the EU approach which allows subcontracting to EU-recognised CABs only. We are currently looking into whether it is possible to subcontract to EU bodies, which is in line with the technical barriers to trade chapter in the UK-EU trade agreement. The NI Protocol also provides for the transfer of certificates from EU CABs to UK CABs and vice versa. (MHCLG)

8. **Please clarify that articles of CPR as established under EU single market rules applies equally in the UK/GB with the same articles, but adjusted for national GB and NI(CE) requirements? Please confirm that the words and content still the same?**

Ahad Sayed noted: In terms of CPR delegated regulations, all such regulations were transferred across to UK CPR regulations. See Para 76 of our UK CPR 2019 regulations and schedule 3. (MHCLG)

9. **Given that there is to my knowledge not one single body that can apply both UKNI and CE Mark what is the point of the UKNI mark?**

Conformity assessment bodies in the UK automatically retained their status as Notified Bodies for placing products on the NI market only (as per Article 7(3) of the Northern Ireland Protocol). UK-based bodies will keep the same 4-digit identification number as they have now. Details of UK Notified Bodies that can certify for the NI market can be found on the UKMCAB database.

The UKNI marking is required when a business is seeking to place a product on the market in Northern Ireland, in accordance with the EU rules that apply there, the relevant legislation requires mandatory third-party conformity assessment, and they wish to use a UK-based Notified Body to do so. In these particular circumstances, the CE marking must be accompanied by the UKNI marking and these products are not valid in the EU. Under the terms of the Government's commitments to NI's 'unfettered access' to the rest of the UK, a Northern Ireland business can place qualifying goods on the market in Great Britain (England, Wales and Scotland) that have a CE or CE + UKNI marking and will not need to apply a UKCA marking. This is not time-limited.

Further guidance on the use of the UKNI marking can be found on gov.uk. (BEIS NI Team)

10. Is it true that there will be four years of transition period for the use of CE mark on the products for Northern Ireland? If yes, what is the start date and finish date of the CE marking being kept unchanged for the NI market?

For as long as the Protocol is in force, the CE marking will continue to be accepted on the NI market.

Under the democratic consent mechanism contained within the Protocol, in late 2023, the Northern Ireland Assembly will vote on whether to continue with the arrangements established under the Protocol. (BEIS NI Team)

11. Will CE and UKCA marking will be valid for NI from 2021?

Yes. A product marked with a combination of the UKCA and CE marking will meet the requirements of placing goods on the NI market. Please note, this may require a business to use both an EU Notified Body in order to apply the CE marking, and a UK Approved Body for the UKCA marking. (BEIS NI Team)

12. Due to the unique situation would a Notified Body established in Northern Ireland be able to assess & approve for both UK and EU?

No. In order to place a product on the EU market, an EU Notified Body must be used to certify against EU product requirements, so that a CE marking can be applied to the product.

If a business chooses to use a UK Notified Body to perform any mandatory third-party conformity assessment to certify a product for the NI market against EU requirements, that product would require the UKNI marking alongside the CE marking. This product would then NOT be valid for the EU market.

Qualifying Northern Ireland goods marked with the CE or CE + UKNI marking can be placed on the whole of the UK market. See gov.uk for further guidance on whether your goods are qualifying NI goods. (BEIS NI Team)

13. If a manufacturer approaches a UK Approved Body for the UKNI, as the UKNI mark requires EU Conformity Marking does that mean that the manufacturer must approach an EU Notified Body also?

A UK Approved Body is one that has been accredited to carry out conformity assessment under the relevant UK regulations and can apply a UKCA marking. A UK Notified Body is one that has been accredited to carry out conformity assessment under the relevant EU regulations that apply in NI and can apply a CE+UKNI marking. In many cases a UK CAB will be able to do both, but they are two separate designations for different purposes.

If a UK based Notified Body has been used to perform mandatory third-party conformity assessment to certify a product against EU regulations, then both the CE and UKNI marking will be issued by the UK Notified Body. This product is valid in NI and in the rest of the UK if it is a qualifying NI good (see gov.uk for further details), but not in the EU.

If an EU Notified Body is used to perform this certification, then only the CE mark is required. (BEIS NI Team)

14. Jonathan mentioned that the EU no longer recognised UK conformity assessment bodies – please can you give further clarification on this statement – it sounds very worrying.

Where EU law requires certification to be carried out by a recognised body, UK bodies now cannot generally do this activity. This doesn't apply to non-regulatory / non-mandatory activity. (BEIS)

15. Given the need to have either a EU CE Body registered in the EU and for UKCA there needs to be a Great Britain registered Body, how do we ensure that the registered body has the robustness and ability (resources and finances) if there is a problem and/or challenge? It would be a significant problem if the Body registered didn't have the wherewithal to deal with an issue.

The tests UK Approved Bodies do to ensure goods are compliant for the GB market are the same as under the previous regime. We sent out "letters of appointment" to UK NBs before the end of last year. This letter outlined their responsibilities which are largely the same as before. For UK NBs, UKAS accreditation provides an assurance of the competence, impartiality and integrity of conformity assessment bodies. (BEIS/UKAS)

16. If the CE mark alone will be recognised in GB after 31st December 2021 for NI products, then what is the impetus for them to also have UKNI marking?

The UKNI marking indicates that a mandatory third-party conformity assessment has been carried out by a UK body against EU regulations. This is so that goods assessed by UK bodies do not end up on the EU market, as the EU doesn't recognise UK Conformity Assessment Bodies. (BEIS NI TEAM)

17. In terms of underlying certificates, laboratory test reports, etc., will there be recognition of existing documentation across boarders or will these documents need to be recreated by an area body? E.g. is an Austrian Test Laboratory report acceptable for UKCA mark?

We recommend that the manufacturer checks with their EU notified body to see whether they have taken steps to transfer certificates. If not, the manufacturer will need to arrange for information to be transferred to a UK approved body, subject to contractual arrangements, or get the product reassessed. In terms of AVCP system 3, MHCLG is working with UKAS to clarify whether type test reports can be transferred. Please see CPR guidance for further information: https://www.gov.uk/guidance/construction-products-regulation-in-great-britain (BEIS)

18. Is it obligatory to have an authorised person in the UK who is compiling the technical file for all Machinery Directive compliant products after Jan 2022?

No, the Supply of Machinery (Safety) Regulations 2008 confirms that the person authorised to compile the technical file does not have to be UK based. (BEIS)

19. Is it correct that for medical devices the transition period ends June 2023, not Jan 2022?

Yes, this is correct. (MHRA)

20. Is there a loophole in the sense that CE marked products can enter GB via NI through the unfettered access route after January 2022?

Under the Government's commitments to Northern Ireland's unfettered access to the rest of the UK market, goods with a CE or CE+UKNI marking that are in free circulation in NI and move directly to GB can be placed on the market in GB and do not need a separate UKCA marking. This arrangement will apply as long as the NI Protocol is in place. This arrangement is intended to benefit NI businesses only, and anti-avoidance measures are in place to prevent abuse of this arrangement. Later this year, Government intends to bring forward further proposals to ensure that the benefits of unfettered access is only available to businesses established in NI. (BEIS NI TEAM)

21. The Self Declaration of Conformity is practically allowed by manufacturer or UK authorized representative for the compliance of products together with Technical Files for certain common UK/GB legislations/regulations. Is it necessary or required to have UKAS ISO 17025 accredited laboratories which the lab is located locally or nationally in EU/Asia/Americas? Or are CBTL labs OK (without UKAS accreditation) to conduct the testing for Toys, Electrical Safety (LVD),

Electromagnetic Compatibility (EMC), Radio Equipment (RE), Ecodesign (ErP) and Restriction of Hazardous Substance (RoHS)?

Where the legislation allows self- certification, there is no mandatory requirement for a product to be tested by independent test labs. The manufacturers can test their own or they can use a test lab to test their products as part of their technical documentation to demonstrate they have taken steps to ensure their product is compliant. If the lab used is accredited, it provides assurance of steps taken by the manufacturer to ensure compliance.

ERP - All ECO is self-declaration (module A) apart from gas space heaters, which require Type Exam certificate by AB (module B). (BEIS/OPSS)

22. For a CE+UK(NI) marking is the CE mark issued by an EU NB?

If a UK based Notified Body has been used to perform mandatory third-party conformity assessment to certify a product against EU regulations, then both the CE and UKNI marking will be issued by the UK NB. This product is not valid in the EU, it is valid in NI and the rest of the UK if it is a NI qualifying good.

If an EU Notified Body is used to perform this certification, then only the CE mark is required. (BEIS NI TEAM)

23. Is there / will there be an attempt to secure a Mutual Recognition Agreement for AVCP System 3 construction products to allow manufacturers to self-certify for CE with existing/new test evidence from a UK Approved Body and conversely to self-certify for UKCA with a EU Notified Body?

The UK proposed a comprehensive Mutual Recognition Agreement in recent negotiations. The EU did not agree to this. (MHCLG)

24. Is there a timescale for the Guidance on AVCP System 3 issue to be published?

Answered live during the event. MHCLG is working with UKAS to clarify whether type test reports under AVCP system 3 can be transferred. This guidance is expected to be published shortly. (MHCLG)

25. In the case of a manufacturer based outside the UK and selling products in the UK market directly to end users over the internet, would such a manufacturer need to appoint an Authorized Representative in the UK?

If the product is a direct sale from outside the UK to an end-user in GB, the importer responsibilities do not apply to the end user. All other product requirements including marking and labelling must continue to be fulfilled. (BEIS)

26. If UK Approved Bodies are still recognised as a Notified Body for NI why is there no reference to this on NANDO?

A UK Approved Body is one that has been accredited to carry out conformity assessment under the relevant UK regulations and can apply a UKCA marking. A UK Notified Body is one that has been accredited to carry out conformity assessment under the relevant EU regulations that apply in NI and can apply a CE+UKNI marking. In many cases a UK CAB will be able to do both, but they are two separate designations for different purposes.

At the end of the Transition Period, all UK Notified Bodies retained their role as Notified Bodies for the purposes of certifying goods for the NI market. These goods must be marked with a CE + UKNI marking to show that a UK NB has carried out the conformity assessment.

UK Notified Bodies in respect of Northern Ireland are listed on the UKMCAB database and businesses should treat UKMCAB as the main resource for what UK Conformity Assessment Bodies are accredited to do within the UK. (BEIS NI TEAM)

27. Could we have the link to the latest BEIS guidance on transfer of information from NBs to ABs please?

https://www.gov.uk/guidance/uk-conformity-assessment (BEIS)

28. What will be the requirements for labelling and general documentation accompanying textile products? Will the contents of labels and documentation be the same as CE today? Or stated otherwise what will be the changes?

You can find full clarification around textile labelling on the government website: https://www.gov.uk/guidance/textile-labelling (BEIS)

29. Can I confirm that MCGA-UK (marine) marking does not have to be completed before the end of 2021 and that OEM's can use Wheel mark until 2023?

Yes, the Wheel mark will be recognised until Jan 2023. See marine information note 590 amendment 4 on gov.uk. (DFT)

30. Is the system 3 guidance available yet please?

MHCLG is working with UKAS to clarify whether type test reports under AVCP system 3 can be transferred. This guidance is expected to be published shortly. (MHCLG)

31. I presume a NI business can still place their existing stock on the market until 31 Dec 2021 if they transferred their CE certification to an EU Notified Body before 1 Jan 2021?

Any product that was placed on either the UK or EU market before 31 December 2020 may continue to circulate freely. Please note, this does not apply to batches of stock, and applies only to the specific product or products that were placed on the market before 31 December 2020.

Please note, the CE marking gained from an EU NB will continue to be valid in GB until 31 December 2021, but businesses are encouraged to be ready for full implementation of the new UK regime as soon as possible after 1 January 2021.

The CE marking will remain valid in NI for as long as the Protocol is in effect. Qualifying NI goods with the CE or CE+UKNI marking can be placed on the whole of the UK market and there is no time limit to this arrangement. There is guidance on gov.uk on qualifying NI goods. (BEIS NI TEAM)

32. A very major question for manufacturers in construction applies where there is no cited and confirmed EU hEN which means CE/UKCA cannot be followed through. Also, there is now no system set up in the UK that mirrors the EOTA organisation, and no process therefore that easily allows UKAD's to be produced. EOTA does not now recognise UK, so under these conditions how can UKCA possibly work for construction products where there is no hEN and no route to get one?

MHCLG is working with the relevant UK TABS to discuss with EOTA the use of EADS as UK ADs. The UK TABS have been asked by MHCLG to form a working group and this group will look to take this matter forward. (MHCLG)

33. What is the format of the UKCA declaration of Conformity, can we combine this with the EU D of C to create a single document?

The same information is required for a UK DoC as it is for an EU DoC apart from you will need to refer to EU legislation. There is no set format. We cannot guarantee that the EU would accept joint DoCs so would advise separate documents. (BEIS)

34. Are you aware that the EU will be placing restrictions for sub-contracting to UK Test Labs? I.E. EU Notified Bodies will not be allowed to accept UK test reports.

The recent trade agreement with the EU reaffirms ability of subcontracting across borders. If you believe there are issues in this area please contact Danny.langley@beis.gov.uk (BEIS)

35. We are a UK based CAB, but we are not an Approved Body (or RTPO or UI). How will BEIS & UKAS ensure that labs like us do not 'fall between the cracks'. For example, where is the equivalent of EU Nando for UK CABs covered by MRAs with Australia, USA etc?

Contact Danny.langley@beis.gov.uk (BEIS)

36. Is there or will there be for the UK an equivalent to the EU directives?

All relevant EU law has been retained in UK law and amended as needed. (BEIS)

37. Once a product has been UKCA certified, how many years does this certification last?

The rules around validity will be the same as for CE certification. (OPSS)

38. How will UK/GB harmonised standards be developed to fill in the gaps in the EU hEN standards system, also to adapt standards to particular GB market conditions? When will that process be started and when is it expected to be completed?

Government has developed a designation process to ensure the UK has access to standards that provide presumption of conformity with GB essential requirements. The process allows for the potential divergence of UK and EU regulatory systems, or if we wish to allow different standards (e.g. British Standards of domestic origin) to provide a presumption of conformity to UK law. We have asked the British Standards Institution (BSI) to ensure that any new or revised designated standards map across to the essential legal requirements in GB. (OPSS)

39. As a UK based Approved Body, if we are awarded any further extensions to the scope of our accreditation by UKAS, will we also need to register this extended scope at BEIS?

Yes – the relevant competent authority will also need to be informed as it is them (not UKAS) who formally award designation. This already happens as part of the existing process. (BEIS)

40. For UK designated standards, how will revisions/amendments to EU harmonised standards (HAS) be assessed for UK designation?

Government will assess how far new or revised harmonised standards cover the relevant GB essential requirements. This will result in a standard either being; designated, designated with restriction or not at all. The British Standards Institution (BSI) are working with government to provide the information necessary to update the list of designated standards. (OPSS)

41. A request more than a question. That is for the guidance regarding the approach required for CPR AVCP System 3 for solid fuel appliances to be decided and published as a matter of urgency. We have clients wanting UKCA certificates but

as yet we are unable to progress them as we do not have guidance on the required approach e.g. full re-testing/targeted/partial re- testing/ technical review. We have been told of the on-going discussions between UKAS and MHCLG and we have discussed market issues and concerns with BEIS and MHCLG but clients are becoming increasingly frustrated at the absence of guidance and the delay in being able to go through the UKCA process for their products.

We are working with UKAS to provide guidance on the acceptance of test type reports under AVCP system 3. Under other AVCP systems we do not see an issue with the transfer of certificates between EU NBs and UK ABs taking place. However, any decision on acceptance of certificates will be down to individual ABs as they take on the legal responsibility for those certificates. (MHCLG)

42. Are there any plans for UK Notified Bodies to be given similar status as, e.g. Norway Notified Bodies with respect to the EU?

We proposed a mutual recognition agreement in recent negotiations but the EU did not agree to this. (BEIS)

43. For the MED (Marine equipment directive) en TPED/ADR: is the transition period well defined? January 2022 or 2023?

Where a product is within the scope of a regulation which requires third party conformity assessment, that certification must be provided by an Approved Body which is listed on the UKMCAB database. The responsibility for the certification lies with the Approved Body, however it is a matter for that body to determine the extent to which reliance is placed upon work performed by other bodies. Please see a link to the UKMCAB database here: https://www.gov.uk/uk-market-conformity-assessment-bodies. (DFT)

44. We are being asked by UK industry what happens with stock that's CE marked in a warehouse for sale in the UK at the end of 2021, can it be sold in the UK, is there a transition period into 2022, because this is how the construction industry operates when buying imported goods from areas such as the Far East. In the current climate, businesses cannot afford to scrap these goods.

If the product has been placed on the market before the end of CE marking recognition, it will be able to continue to circulate until it reaches its end user. Products placed on the market post-2021 will need to meet GB requirements at the time of placing on the market, including UKCA marking. (MHCLG)

45. What is the implementation date for "Rho" marking according carriage of dangerous goods regulation (TPED)?

Under the GB regulations (CDG 2020) the rho mark can now be used by GB appointed bodies undertaking conformity assessment of TPE for the GB market. We will however continue to accept EU pi-marked TPE for a minimum of 12 months. Subject to ministerial approval, we intend to run a consultation shortly to help inform a decision on whether this continued acceptance will extend to January 2023. (DFT)

46. On the test standard for the CPR - will test methods be BS and EN standard? Will there be a tendency to go for BS rather EN standards?

CPR designated standards can be found here: https://www.gov.uk/government/publications/designated-standards-construction-products. UK designated standards are prefixed with “EN”, “EN ISO”, or “EN IEC”, not “BS EN”. All European standards are adopted identically by the 34 national members of CEN and CENELEC, with the same number and a national prefix, (e.g. BS EN in UK, DIN EN in Germany, and NF EN in France). Current regulatory practice is to cite the EN version, thus permitting any national adoption to enable the legal effect of presumption of conformity or BS EN. (MHCLG)

47. Is this requirement for UK testing only being announced today?

No – this was confirmed last year. Non-UK bodies can certify goods if there is a trade agreement in place that provides for it. (BEIS)

48. Can a CPR product be labelled with both the CE and UKCA mark if issued by correct NB's and have supporting declarations?

Yes, as long as both UK and EU CPR requirements are met. (MHCLG)

49. Fire resistance testing capacity in the UK is particularly restricted. Resources with the necessary core experience, skills, knowledge are also very limited, restricted to a relatively small circle of individuals. It is the experience of companies that receiving a test report finished and delivered can take up to 9 months, or even a year. Projects cannot wait for that time lag. How can capacity in the UK be increased? What compensations will government offer to those who cannot get products tested?

Thanks. We are interested in any information about specific capacity issues. Please email Danny.langley@beis.gov.uk (BEIS)

50. What will happen to UKCA certificates issued using EU27 generated test evidence after 2021?

All products that are placed on the GB market from 2022 will need to get approval from a UK Approved Body unless the product is self-certified. (BEIS)

51. If a manufacturer is approved by an EU Notified Body Under system 1. Can the UK Notified Body assess these reports without visiting the site and issue system 1 classification reports?

We recommend that the manufacturer checks with their EU Notified Body to see whether they have taken steps to transfer certificates. If not, the manufacturer will need to arrange for information to be transferred to a UK Approved Body, subject to contractual arrangements, or get the product reassessed. Please see CPR guidance for further information: https://www.gov.uk/guidance/construction-products-regulation-in-great-britain (MHCLG)

52. (EU)425/2016: what will be the corresponding UK legislation?

Regulation (EU) 425/2016 (as retained in UK law and amended) (OPSS)

53. As part of EU CPR there is need to create DofP & DofC. UKCA replicates this requirement but can we use EU DofP/DofC or must a UKCA version be produced?

If you wish to affix both the UKCA mark and CE mark to your product, you will need valid Declarations of Performance that meet both the GB and EU CPR regimes' requirements. (MHCLG)

54. It seems that the Building Safety Bill will deviate from the EU's CPR and therefore result in TBTs. This is concerning as the link between CE marking and UKCA marking would be broken. What steps are the UK government going to take re alignment with the EU?

The Building Safety Bill builds on the requirements of the CPR. The government remains committed to maintaining high standards for construction products that are put on the market and will continue to align with EU CPR as long as possible. The UK CPR regulations ensure that the same standards that applied before the UK exited the EU will continue to apply now. We also await the outcome of the EU CPR review that is currently taking place, and it will be up to the Secretary of State to decide if GB aligns with future EU standards. We also intend to use the Building Safety Bill to implement the recommendations of the Hackitt Review to further strengthen regulatory oversight of construction products at a national level will cover more construction products than those that currently fall within the CPR requirements. (MHCLG)

55. Designated standards: With regards to cases where the EU identified standards only to a transition status and appear never to have harmonised (e.g. Hot water boilers covered by 813/2013 - which overlaps with BED so relates to 3rd party

testing for or by an AB), will the relevant standards be 'Designated' or will test laboratories in the UK need to rely on the EU transitional communication (which directs to some withdrawn standards) or something else?

In the absence of designated standards for certain eco-design regulations, the transitional measurement method should be used (where available), or other reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art methods, as per the regulations themselves. The UK Government will look to designate standards for these regulations as soon as appropriate standards are available. (OPSS)

56. Who forms the membership of the panel of experts on testing? What are the criteria used to choose the panel members, specifically in terms of developing and testing construction products?

We're still identifying appropriate candidates to lead the review and look to be submitting a shortlist to the minister to approve soon. We can put interested parties in teach with the relevant MHCLG team if they wish to participate in this review. (MHCLG)

57. As an EU Notified Body under the CPR for a chimney producer that needs the UKCA Mark, what should we do? Is the best solution to contact a UK NB to share information in order to not audit the same client both for EU Mark and UKCA Mark?

In order to implement the UKCA mark from 2022, the producer should use a UK Approved Body to apply the UKCA marking to their product. If the product is covered by AVCP 1+,1 an EU NB can contact a UK AB to see if certificates can be transferred across. If there is a requirement to carry out an audit then there is no reason why a subcontracting arrangement could not be in place between the AB and NB that only one audit exercise is carried out. Any agreement would need to be agreed with the producer. (MHCLG)

58. Is EU regulation 779/2019/EU for ECM still valid for the UK? If yes, until when? What are the arrangements for issued ECM certificates?

EU Regulation (EU) 2019/779 was revoked for Great Britain by the Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786), except for the Channel Tunnel where it continues to apply. This is in accordance with Annex A of Appendix G of the Convention concerning International Carriage by Rail (COTIF), which the UK is a signatory of, and applies to all international rail services (freight and passenger).

ECM certificates issued by GB certification bodies were previously published online by the Office of Rail and Road (ORR), who were the only certification body for GB until May 2018. These certificates can be found here. From May 2018, Network Rail, SGS UK Ltd and TUV Rheinland UK Ltd became the UK's certification bodies. ECM certificates issued by these bodies are listed on a joint OTIF-EU ECM register on the European Railway Agency

Database of Interoperability and Safety (ERADIS).

The domestic requirements for ECMs are established under Regulation 18A of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (S.I. 2006/599) and Schedules 9 and 10 of the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837), which substantially replicates the provisions of Commission Regulation (EU) 445/2011.

ECM certificates issued by EU certification bodies under EU Regulation (EU) 2019/779 are recognised as being valid for use on the GB main line, alongside those issued under Regulation 18A. ECMs may apply to certification bodies accredited by UKAS for UK-issued ECM certificates.

The arrangements for ECM certificates is set out in joint DfT/Office for Rail and Road guidance which can be found here: https://www.orr.gov.uk/sites/default/files/2020-12/guidance-on-entities-in-charge-of-maintenance-from-1-january-2021.pdf (DFT)

59. If a 2-year period of acceptance for a pi marked cylinder to continue in use is all that is allowed then what should happen at the end of the 2 years? A pi marked cylinder would then need to be withdrawn from service and have conformity assessment and a periodic inspection/test for application of rho mark? What happens regarding dual marked cylinders (pi and rho)?

The period of continued acceptance of pi-marked TPE applies to TPE being placed on the market. TPE already on the GB market can remain in use until the next inspection/test is due. At this point the TPE can be inspected by a GB appointed body and 'converted' to UK TPE under the GB regulations. (DFT)

60. Will there be a further attempt to secure an MRA for AVCP System 3 construction products to allow manufacturers to self-certify for CE with test evidence from a UK Approved Body and conversely to self-certify for UKCA with an EU Notified Body?

The Government's focus is on implementing the current deal although we are open to additional agreements in the future. The UK was in favour of an MRA but the EU was not. (MHCLG)

61. For any electrical products imported from e.g. China that would previously have required a CE mark, will a GB based importer have to submit goods to a national accredited body to have a UKCA marking before being allowed to sell or distribute within the UK and EU?

The UKCA mark will be needed to place products on the GB market from 1 Jan 2022. However, to allow businesses time to adjust, they may attach the UKCA marking to the product packaging and/or accompanying documents until 31 Dec 2022. From 1 Jan 2023,

the UKCA marking must be affixed to the product directly unless specified in legislation. (BEIS)

62. For electrical products imported from outside the UK e.g. from the far east that would previously have required a CE mark, must a GB based importer approach a national accredited body to have the products approved and UKCA marked before being allowed to sell or distribute within the UK and EU?

The UKCA mark will be needed to place products on the GB market from 1 Jan 2022. However, to allow businesses time to adjust, they may attach the UKCA marking to the product packaging and/or accompanying documents until 31 Dec 2022. From 1 Jan 2023, the UKCA marking must be affixed to the product directly unless specified in legislation. (BEIS)

63. Do you know if the EU will be placing restrictions for sub-contracting to UK Test Labs? I.E. EU NB's not allowed to accept UK test reports.

The terms of the UK-EU Withdrawal Agreement (Article 46) mean that upon request by a manufacturer, a CAB located in the UK or EU should share with a body located in the other market information they hold in relation to conformity assessments carried out before the end of the Transition Period. This is intended to facilitate the issuing of new certificates. We recommend that you refer to the EU Commissions' website for more information on EU processes. Follow a link to their page here: https://ec.europa.eu/info/relations-united-kingdom/new-normal/consequences-brexit_en

The UK government cannot answer on EU's behalf. The EU-UK_Trade_and_Cooperation_Agreement dated_24.12.2020 under Article TBT.6: Conformity assessment . Para 3 (f) states: "(f) allow conformity assessment bodies to use subcontractors to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of the other Party, and may require subcontractors to meet the same requirements the conformity assessment body must meet to perform such testing or inspections itself; and". However, our current UK CPR regulations look to limit subcontracting to only between UK bodies. MHCLG is now looking at this technical inconsistency in our regulations. (BEIS/MHCLG)

64. CPR Construction Products - year of affixation of marking. For existing UK issued CE approvals, does this become a new affixation (i.e. marked 21) or does it retain the original, first affixation under the CPD/CPR (e.g. 13 for 2013)

As was the case for the CE label, the UKCA label must contain the following information:
- UKCA symbol
- last two digits of the year in which this specific UKCA marking was affixed
- name and address of the manufacturer (or their identifying mark)

• unique ID code of the product type
• reference number of the DoP
• declared performance of the product
• reference to the UK designated standard or UK Assessment Document
• identification number of the UK Approved Body
• intended use(s) of the product
• website where the DoP can be found

The UKCA mark must be affixed visibly, legibly and indelibly to the product. However, where this is not possible or not warranted, it can be affixed to the packaging or to the accompanying documents. (BEIS/MHCLG)

65. For UK DoC, is it ok to have standards without BS EN prefix, but just EN for Radio Equipment (RE)? I am not sure if there are British standards equivalent to ETSI EN standards under RED directive for EU.

The CPR deals with products being placed on the market. Where separate products from different manufacturers are installed in a building as a system then it is not possible to test those configurations How those products interact in a building system is down to installers, designers, Architects and manufacturing ensuring that those installed products ultimately meet the building regulations requirements when combined in a system. It is for the Architects, installers and ultimately Building Control Bodies to take a more active role in ensuring those products when installed in a building are safe during their ongoing use. (OPSS)

66. Are we saying that as off the end of 2021 UK Approved Bodies can't accept test reports from EU27 laboratories?

Where it was acceptable under the EU regime to accept test reports from laboratories outside of the EU, it is also acceptable under the UK regime to accept test reports from outside of the UK. Otherwise, where the EU regulations required certain activities to be carried out by an EU domiciled body, the new UK rules will require those to have been carried out by a UK domiciled body from 2022 (with some exceptions). (BEIS)

67. I have a client who have stock in their UK warehouse which is CE marked and may not be sold until after 01/01/2022. Is any action required in respect of getting it UKCA marked?

Products placed on the market from 1 Jan 2022 will need to meet GB requirements at the time of placing on the market, including UKCA marking. (BEIS)

68. Will GB recognise the differences between basic initial type tests (before placing products on the market and making them available for sale) and application tests which take place whilst the product is in the market and being used?

Brexit has not fundamentally altered the application of essential requirements or the operation of the directives in most cases, other than in respect of conformity marking, assessment and designation of standards. Where equipment is required to meet ongoing safety requirements whilst in use this is (and has always) been a separate issue from that of conformity assessment (for example the Provision and Use of Equipment at Work or the requirement for in service inspection of electrical equipment). (OPSS)

69. What is the guidance on periodic inspection for TPED Pi or Rho marked equipment that could be used both in the EU (e.g. filled) and then used to supply product in the UK market? Will this require dual inspection?

Rho-marked TPE that complies with ADR/RID/ADN can be used for transporting dangerous goods exclusively between GB and an EU member state without the need for pi-marking. For TPE to circulate within the EU market, it must be pi-marked. Dual marked TPE can be made available on both markets.
An EU notified body must undertake periodic inspections for pi-marked TPE in line with the Transportable Pressure Equipment Directive for it to remain valid for the EU market. Similarly, rho-marked TPE must be inspected by a GB appointed body in line with the GB regulations to remain valid for the GB market. (DFT)

70. At the start of the presentation, it was mentioned that further guidance has been issued by BEIS. Could you please include the link?

https://www.gov.uk/guidance/uk-conformity-assessment

71. The Radio Equipment Regulations 2017 on gov.uk which underpin UKCA refers to equipment being able to operate in at least one member state and manufacturers providing information on restrictions on putting products into service in Member States. Is this now not applicable with the UK not being a member state of the EU?

Guidance can be found here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/958779/Guide-to-radio-equipment-regulations-2017-r14-tp-version-3.pdf

72. MHCLG: Please check the EU's Notice to Stakeholders for industrial products, and similar guidance from the Irish Housing ministry, which state that certificates issued by a CAB in GB are not valid in NI. This appears to be incorrect. https://www.gov.ie/en/publication/9a771-brexit-construction-products-regulation/

There is currently a difference of opinion between the EU and UK in relation to CAB activity carried out by UK approved bodies in NI under the Northern Ireland Protocol, which would allow a manufacturer to place the CE marking with UK(NI) indication mark on their product when placing it on the NI and GB market.

The UK's current position is that:
In NI, both the CE marking and the CE marking with UK(NI) indication will be recognised. Manufacturers will either need to:

• affix the CE marking with UK(NI) indication using a UK-recognised ‘approved body’, or
• affix the CE marking using an EU-recognised ‘notified body’.

The UK recognises UK ‘approved bodies’ as being based in the UK.

Ultimately, it is the UK government who is responsible for implementing the market surveillance of construction products in GB and NI, and therefore it decides if a product has been lawfully placed on the GB and NI markets.

Until 1 January 2022, Great Britain will recognise all construction products that meet either EU or Northern Ireland rules.

From 1 January 2022, only businesses that meet qualifying Northern Ireland goods status will qualify for unfettered access which would allow them to place CE or CE UKNI marked goods on the GB market. We are also in process of amending our legislation for this to happen. (MHCLG)

73. For the CPR, will the UK keep the same update for hEN (in OJEU) that the EU or will UK take the latest version of hEN?

The UK CPR regulations ensure that the same standards that applied before the UK exited the EU will continue to apply now. A list of CPR designated standards can be found here: https://www.gov.uk/government/publications/designated-standards-construction-products. It will be up to the Secretary of State to decide which new harmonised European standards will become designated standards. (MHCLG)

74. What do you mean with "this is the maximum duration" for TPED? 2022 or 2023?

For transportable pressure equipment, this period will last for a minimum of 12 months. Subject to ministerial approval, we plan to run a consultation shortly to help inform a decision on whether it will extend to January 2023. Email philip.tucker@dft.gov. with questions. (DFT)

75. For the testing panel, which type of tests and which functions are being focused on as the first and main priorities?

We’re still identifying appropriate candidates to lead the review and look to be submitting a shortlist to the minister to approve soon. We can put interested parties in teach with the relevant MHCLG team if they wish to participate in this review.

Details on the testing regime will be worked out once the panel is in place. (MHCLG)

76. May UK bodies accept reports from non-UK bodies (subcontracting) working in 17025 and/or 17021 to certify products in 17065?

Yes, as long as the subcontracted bodies meet the same requirements as necessary for the UK approved body. The UK Approved Body must be confident of the validity of the reports

and is responsible for the test results and final decisions. The UK AB must have the technical ability to assess the work of the sub-contracted non-UK body. (OPSS)

77. What happens if a UKNI mark was used and not intended for Eire but ends up there, how does that work? What will happen?

In order to place your product on the Republic of Ireland market, an EU Notified Body must be used to carry out any mandatory third-party conformity assessment. Products marked incorrectly, such as with the CE + UKNI marking is a matter for trading standards and market surveillance authorities responsible in the Republic of Ireland. For a list of national market surveillance authorities by country, please see https://ec.europa.eu/docsroom/documents/43529/attachments/1/translations/en/renditions/pdf (BEIS NI TEAM)

78. For products previously assessed when UK bodies were Notified Bodies, is there a timescale for when the existing certificates need to be updated? Or can then remain valid for only the UK market?

Existing certificates issued by UK notified bodies remain valid for the UK market. There is no time limit on this. (BEIS)

Further information

If you have additional questions, please contact communications@ukas.com.