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Guidance

# Construction Products Regulation from 1 January 2021

Guidance providing practical information for placing construction products on the GB market from the end of the transition period.

Published 1 September 2020

From:

Ministry of Housing, Communities & Local Government (<https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government>)

## New rules for January 2021

The UK has left the EU, and the transition period after Brexit comes to an end this year.

This page tells you what you'll need to do from 1 January 2021. It will be updated if anything changes.

For current information, read: [EU Construction Products Regulation and CE marking, including UK product contact point for construction products](https://www.gov.uk/guidance/eu-construction-products-regulation-and-ce-marking-including-uk-product-contact-point-for-construction-products) (<https://www.gov.uk/guidance/eu-construction-products-regulation-and-ce-marking-including-uk-product-contact-point-for-construction-products>)

You can also read about the transition period (<https://www.gov.uk/transition>).

Applies to:

Wales, England, and Scotland

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This guidance is about placing construction products on the GB market. The GB market refers to England, Wales and Scotland.

This document sets out our intentions as to what the legislation will say. The legislation will need to be approved in Parliament, so there may be changes. We will review the guidance once the legislation has been passed through Parliament.

Note: This guidance does not cover goods placed on the Northern Ireland market or goods placed on the GB market from Northern Ireland. Guidance on this will follow.

Businesses must prepare for the end of recognition of the CE mark in GB and affix the UK marking using a UK-recognised 'approved body' by 1 January 2022.

Businesses are being encouraged now to be ready for the full implementation of the new UK regime, as soon as possible after 1 January 2021. Businesses will be able to use the UK mark from 1 January 2021. To allow businesses time to adjust, some CE marked goods, that meet EU requirements, may continue to be placed on the UK market.

However, this arrangement will end on 1 January 2022, and businesses should ensure they are prepared for the new system before it comes into effect.

For further guidance if you're placing construction products goods on the European Union market, read: EU Construction Products Regulation and CE marking (<https://www.gov.uk/guidance/eu-construction-products-regulation-and-ce-marking-including-uk-product-contact-point-for-construction-products>).

## Purpose

To provide a summary of the actions that will be required by economic operators wishing to place construction products on the GB market and by UK based conformity assessment bodies from the end of the transition period.

Annex A of this guidance sets out additional information for current UK notified bodies.

Annex B provides information in relation to authorised representatives.

Annex C provides detail in relation to the technical assessment bodies ('TABs'), for those construction products that are not fully covered by a harmonised standard.

We published guidance to help businesses to prepare for EU exit in a no deal scenario on 24 January 2019. This guidance replaces this and provides practical information for placing construction products on the GB market from the end of the transition period. Guidance on placing goods on the NI market will follow.

## Construction Products Regulation from 1 January 2021

The government has made the following statutory instrument which will come into effect on 1 January 2021.

Please note, the government proposes to amend this statutory instrument (<http://www.legislation.gov.uk/ukxi/2019/465/made>) to take into account the effect of the Withdrawal Agreement and Northern Ireland Protocol. Further changes may be made if the UK and EU establish different arrangements under the future trade agreement.

The amended statutory instrument will come into effect on 1 January 2021 replacing the current statutory instrument.

## Designated standards

All existing harmonised European standards will become UK 'designated standards'. This will mean that immediately after the end of the transition period harmonised European standards and UK designated standards will be identical.

The government will publish and maintain the list of these designated standards on a UK Database.

# **Transitional provision for CE marked products already placed on the UK market<sup>1</sup>**

Under the terms of the Withdrawal Agreement, goods lawfully marked with the CE mark and placed on the EU market before the end of the transition period can continue to circulate until they reach their end user, whether they are in the UK or the EU.

This includes requirements that they:

- are covered by a harmonised European standard, which is the same as a UK designated standard (as noted above)
- are affixed with CE marking
- are accompanied by a manufacturer's declaration of performance
- have been assessed by an EU-recognised notified body, where third party assessment is required.

It will be up to any economic operator, relying on this provision, to prove that the goods were placed on the market before the end of the transition period.

## **UK 'Approved Bodies'**

From 1 January 2021, UK notified bodies operating under the EU Construction Products Regulation 2011 (EU Regulation No. 305/2011) and based in the UK will be granted new UK 'approved body' status and listed on a new UK database. Notified bodies established in the UK were contacted in February 2019 with more details about how the process of becoming a UK approved body will be managed.

Where UK notified bodies indicate that they do not intend to operate under the UK framework, their designation as a UK notified body will be withdrawn by the UK government and they will not be listed in the new UK database of approved bodies.

Approved bodies will be able to undertake conformity assessment activity for UK designated standards. Where an approved body has undertaken the assessment, the manufacturer (or their authorised representative) must affix the UK marking. Rules around affixing the new UK marking will be equivalent to current CE marking. Further updated details on using the UK marking and the status of CABs can be found on the gov.uk website. See Annex A.

Where a UK notified body (which becomes a UK approved body) had carried out tasks or issued certification in relation to the Assessment and Verification of Performance (AVCP) for a product before 1 January 2021, then those tasks and/or that certification may be used to support affixing of the UK marking if the product is placed on the GB market after this date.

## **Market surveillance**

The UK will have powers to carry out market surveillance and enforcement (Trading Standards in GB and Environmental Health Officers in NI) to ensure that non-compliant products can be removed from the UK market. The government is developing UK databases to support this work.

## **Actions for businesses and other stakeholders**

### **Placing construction products on the GB market**

Businesses must prepare for the end of recognition of the CE mark in GB and affix the UK marking using a UK-recognised 'approved body'.

To provide sufficient time for businesses to transition to the new requirements, products can continue to be placed on the UK market without any need for reassessment or re-marking if EU requirements are met (including CE marking). Any third-party conformity assessment must continue to be carried out by an EU-

recognised notified body during this time. Businesses must prepare for this provision to end on 1 January 2022.

Products that meet UK requirements and bear the UK mark can only<sup>2</sup> be placed on the GB market if third-party assessments have been carried out by a UK approved body.

UK-based notified bodies will become UK approved bodies and will be listed on a new UK database (see Annex A).

Distributors in the EU who bring products in from the EU to the GB market will, in most cases, now be classified as 'importers', bringing in products to the GB from a third country<sup>1</sup>. This change in status will bring new obligations such as:

- a requirement for importers to label their products with their name and address
- ensuring that the assessment and verification of constancy of performance (AVCP) requirements has been carried out by the manufacturer
- the product must bear the conformity marking
- ensuring that the manufacturer has complied with their labelling obligations.

GB economic operators - whether manufacturers, importers, distributors or authorised representatives - should consider taking professional advice to make sure that they understand their status and obligations under the new GB regulatory framework.

## **Annex A: UK Approved bodies**

From the end of the transition period, existing UK notified bodies operating under the UK CPR regime will become UK 'approved bodies.' There will be no need for existing UK notified bodies to seek re-accreditation in order to benefit from UK approved body status.

Notified bodies established in the UK were contacted in February 2019 with more details about how the process of becoming a UK approved body will be managed. Where bodies act as notified bodies under different legislation, they should only have been contacted by government once.

Where UK notified bodies do intend to operate under the new UK framework as UK approved bodies, they will automatically be granted this status by 31 December this year. They will be listed on a UK version of the New Approach Notified and Designated Organisations (NANDO) database and given a 4-digit approved body number. The current intention is that this will be the same number as their existing notified body number.

Where UK notified bodies indicate that they do not intend to operate under the UK framework, their designation as a UK notified body will be withdrawn by the UK government. They will not be listed in the new UK database of approved bodies. These bodies will need to transfer relevant documentation to another approved body (or the relevant government department - the Ministry of Housing, Communities and Local Government) or retain the relevant documentation for a specified period.

The United Kingdom Accreditation Service (UKAS) will continue to be the UK's national accreditation body for accrediting UK approved bodies under the UK Construction Products Regulation.

## **Annex B: Authorised representatives**

To minimise disruption after the end of the transition period, where a manufacturer has issued a written mandate to an existing authorised representative based in an EU country, that authorised representative will continue to be recognised in the UK until 1 January 2022.

However, new authorised representatives will need to be established in the UK to be recognised under UK law after this date.

## **Actions for businesses and other stakeholders**

Manufacturers wishing to appoint a new authorised representative to carry out tasks on their behalf in GB will need to appoint a representative established in the UK.

## **Annex C: Technical assessment bodies**

From the end of the transition period, UK-based technical assessment bodies will be able to carry out the technical assessment of construction products for the UK market. The products may then be affixed with UK marking.

Current technical assessment bodies based in the UK will not need to seek re-accreditation and will be granted status as a UK 'technical assessment body' and listed on a new UK database.

Technical assessment bodies will be responsible for drawing up and adopting UK assessment documents. (The UK technical assessment bodies may collectively form an organisation to undertake the role of developing and adopting assessment documents.)

## **Implications**

UK-based technical assessment bodies will become 'UK technical assessment bodies' from the end of the transition period and will be listed on a new UK database.

UK-based technical assessment bodies were contacted in February 2019 with more details about how the process of acquiring this status will be managed. They will not need to seek re-accreditation to benefit from UK technical assessment body status.

UK-based technical assessment bodies will be able to draw up UK assessment documents for manufacturers placing goods on the GB market. Manufacturers will be able to obtain a voluntary UK mark for their products.

UK technical assessment bodies may use a European assessment document that was adopted before the UK left the EU, to develop a UK assessment document, if they have obtained the necessary consent to do so from the European Organisation for Technical Assessment.

Manufacturers wanting to affix CE marking using a European technical assessment after the end of the transition period should refer to EU guidance.

To minimise disruption after the end of the transition period, products can continue to be placed on the UK market if EU requirements are met (including CE marking). Businesses must prepare for this provision to end on 1 January 2022.

## **Frequently asked questions**

### **1. After the end of the transition period, will there be a greater risk of unsafe products on the GB market?**

We remain committed to ensuring that UK standards are maintained. Our regulations ensure that the same standards that applied before the end of the transition period will continue to apply afterwards. In addition, we intend to implement the recommendations of the Independent Review of Building Regulations and Fire Safety (<https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-final-report>) to further strengthen regulatory oversight of construction products at a national level.

### **2. How will products already circulating on the GB market be affected?**

For an individual product already circulating on the GB market prior to the end of the transition period, no additional action is needed. A certificate issued by a EU notified body that was valid immediately before that date continues to be valid for the purposes of the GB market.

### **3. What do I need to do to place a product on the GB market after the end of the transition period?**

Businesses must prepare for the end of recognition of the CE mark in GB and affix the UK marking using a UK-recognised 'approved body' on 1 January 2022.

Until then, in GB both the UK marking and the CE marking will be recognised. Manufacturers will either need to:

- affix the UK marking using a UK-recognised 'approved body', or
- affix the CE marking using an EU-recognised 'notified body'.

Where no third-party conformity assessment is required (AVCP system 4) the manufacturer can choose whether to affix the UK marking or the CE marking, provided that the underlying requirements are met.

### **4. What do I need to do to place a product on the EU market after the end of the transition period?**

After the end of the transition period, it will be for the EU to determine the arrangements that apply.

### **5. If I am placing products from the EU on the GB market, will my obligations be affected?**

If you place products from the EU on the GB market you will, in most cases, now be classified as an 'importer' bringing in products to GB from a third country. There will be a requirement:

- for importers to label their products with their name and address
- to ensure that the assessment and verification of constancy of performance (AVCP) requirements has been carried out by the manufacturer
- that the product bears the conformity marking
- that the manufacturer has complied with their labelling obligations.

In addition, importers must not place products on the GB market if they have reason to believe that the product does not comply with the applicable requirements of the UK Construction Products Regulations.

### **6. What happens if I am part-way through conformity assessment activity at the end of the transition period?**

Where conformity assessment activity has been undertaken (in full or in part) by a UK notified body and the product has not been placed on the UK market before the end of the transition period, that conformity assessment activity can be used to support the affixing of the UK marking.

If the conformity assessment activity is being undertaken by an EU-recognised notified body, the process can be completed after the end of the transition period and the CE marking can be affixed in accordance with EU rules, and provided that the goods are placed on the GB market before 31 December 2021 they can be placed lawfully on the GB market with the CE marking.

However, businesses must prepare for the end of recognition of the CE mark on the 1 January 2022 for products being placed on the GB market.

### **7. Will manufacturers need to test products twice to sell on GB and EU markets?**

Businesses must prepare for the end of recognition of the CE mark in GB and affix the UK marking using a UK-recognised 'approved body'.

In GB both the UK marking and the CE marking will initially be recognised. Manufacturers will either need to:

- affix the UK marking using a UK-recognised 'approved body' or
- affix the CE marking using an EU-recognised 'notified body'.

The EU have indicated they will only recognise the CE marking.

From 1 January 2022, businesses must affix the UK marking to place products on the GB market.

## **8. Can I still use certificates from EU-recognised notified bodies for products placed on the GB market?**

Businesses must prepare for the end of recognition of the CE mark in GB and affix the UK marking using a UK-recognised 'approved body'.

However, until 1 January 2022, the CE marking can be affixed where any third-party conformity assessment has been undertaken by an EU-recognised notified body.

## **9. Can an EU-recognised notified body certificate be used to enable a manufacturer to affix the UK marking?**

No. For a UK marking to be affixed, any third-party conformity assessment must be undertaken by a UK approved body.

However, where CE marking has been legitimately affixed, the product can be continue to be placed on the GB market until 1 January 2022. There is no need to affix UK marking in addition to CE marking. After this date, the UK mark must be affixed. This approach should provide manufacturers with sufficient time to make the necessary changes to move over to the UK mark.

## **10. How do I transfer an existing conformity assessment certificate to an EU-recognised notified body?**

Check whether your UK notified body is taking steps of its own to transfer certificates, so that you can continue to export to the EU without needing to find a new EU notified body. If not, you will need to either:

- arrange for information held by your existing UK notified body to be transferred to an EU notified body so they can issue you a new certificate. This would be subject to contractual arrangements between the EU-recognised notified body, the UK body, and the manufacturer, or
- get your products reassessed by an EU-recognised notified body.

If your existing certificate is transferred to an EU notified body then you will need to update the 4-digit notified body number on your products. You will not need to do this for products already on the market or which were manufactured before the transfer took place.

A list of EU-recognised notified bodies ([http://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=directive.notifiedbody&dir\\_id=33](http://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=directive.notifiedbody&dir_id=33)) is available (the UK bodies would be removed from this list at the end of the transition period).

From 1 January 2022, you should also prepare to need separate certificates for the GB and EU markets, so you should speak to both your existing and new body to make arrangements that mean you will be covered for both markets in the future.

## **11. Will manufacturers supplying products to GB and EU be required to issue two Declarations of Performance for the same product?**

An additional Declaration of Performance is not required for the GB market where the obligations of the EU and UK standard for the product are the same (which they will be immediately from the end of the transition period), where the product has been legitimately affixed with CE marking and the declaration of performance is supplied in English.

## **12. How long will GB continue to accept CE marked products?**

Businesses must prepare for recognition of the CE mark in GB to end on 1 January 2022. After this date, products placed on the market in GB UK mark must bear a UK mark.

## **13. What is meant in the Regulations by 'place on the market' and 'making a product available on the market'?**

References in the GB regime to 'the market' will mean the Great Britain market, rather than meaning the EU market. Apart from that, these definitions will be unchanged and so operators do not need to change their approach in this regard. See Article 2 in Regulation (EU) No 305/2011 (<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0005:0043:EN:PDF>) for more information.

'Placing on the market' means the first making available of a construction product on the GB market.

'Making available on the market' means any supply of a construction product for distribution or use on the GB market in the course of a commercial activity, whether in return for payment or free of charge.

## **14. What has government done to help businesses and organisations prepare for the changes to come?**

We published guidance to help businesses to prepare for EU exit in a no deal scenario (<https://www.gov.uk/guidance/construction-products-regulation-if-there-is-no-brex-it-deal>) on 24 January 2019. This guidance replaces this and provides practical information for placing construction products on the GB market from the end of the transition period. Guidance on placing goods on the NI market will follow.

Notified bodies established in the UK were contacted in February 2019 with more details about how the process of becoming a UK approved body will be managed.

## **15. What is meant by 'the end of the transition period'?**

The transition period will end at 11pm on 31 December 2020.

## **Footnotes**

1 'Placing on the market' means the first making available of a construction product on the GB market. 'Making available on the market' means any supply of a construction product for distribution or use on the GB market in the course of a commercial activity, whether in return for payment or free of charge.

2 Further guidance will be provided for placing goods on the NI market.

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## **Related content**

- Independent Review of Building Regulations and Fire Safety: final report (<https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-final-report>)
- Placing manufactured goods on the EU market from 1 January 2021 (<https://www.gov.uk/guidance/placing-manufactured-goods-on-the-eu-market-from-1-january-2021>)

- Conformity assessment bodies: change of status from 1 January 2021  
(<https://www.gov.uk/guidance/conformity-assessment-bodies-change-of-status-from-1-january-2021>)
- Placing manufactured goods on the market in Great Britain from 1 January 2021  
(<https://www.gov.uk/guidance/placing-manufactured-goods-on-the-market-in-great-britain-from-1-january-2021>)

## **Explore the topic**

- Building regulation (<https://www.gov.uk/housing-local-and-community/building-regulation>)