



Countdown to Brexit Series

What should you be doing now?

The sixth in our series of Countdown to Brexit -
The UKCA Mark

WALKER
MORRIS



Introduction

This week's article looks at the UKCA (UK Conformity Assessed) marking, the new UK product marking that will be used for certain goods placed on the UK market in the event of a no-deal Brexit. If Britain leaves the UK without a deal, this marking will replace the long standing CE marking that has indicated conformity with health, safety and environmental protection standards for products sold within the European Economic Area since 1993.

Details of this mark were [published](#) by the government earlier this year (see our note from February), and while the Prime Minister has expressed renewed hope at reaching a fresh Brexit deal, the circumstances of the UK's departure from the European Union remain uncertain.

Do I need the new UKCA marking?

If your product is to be placed on the UK market, requires mandatory third party conformity assessment, and you currently use a UK-based notified body for such an assessment, or intend to do so post Brexit, you will need to use the UKCA marking to indicate compliance with UK regulations from exit day.

A product is deemed "placed" on the market when it is made available on the market for the first time; that is, when it is first supplied for distribution, consumption or use on the market in the course of a commercial activity. This is the case irrespective of whether such placement is in return for payment or whether the product has been physically delivered.

If you already are placing goods on the UK market you can continue to use any existing authorised representative based in the UK, EU, EEA, Switzerland or Turkey, and they will be recognised by the UK. However, if you require a new authorised representative to place your goods on the UK market post Brexit, this representative will need to be UK-based.

What about CE marking?

For a limited period, the CE mark will continue to be recognised in the UK after Brexit for: (i) goods that are CE marked further to self-certification; (ii) goods for which any mandatory third-party conformity assessment was carried out by an EU-recognised notified body; and (iii) goods where a certificate of conformity previously held by a UK body has been transferred to an EU-recognised notified body.

However, the precise time limit during which the CE mark will remain accepted by the UK is currently unknown and the subject of government consultation. Businesses will be given notice before the CE marking ceases to be recognised in the UK. A product bearing the CE marking would still be valid for sale in the UK after this time, provided it was also UKCA marked and complied with relevant UK rules.



What if my products are to be placed on the EU market?

As the UKCA marking will not be recognised on the EU market, products that currently require a CE marking will continue to do so if they are to be sold in the EU. Those facing the greatest upheaval are likely to be manufacturers who have used UK conformity assessment bodies. These UK bodies will no longer be recognised by the EU, and therefore UK based assessments cannot support the use of a CE mark. Those wishing to place products on the EU market must seek EU-recognised conformity bodies as soon as possible.

Write it down

If you are to use the UKCA marking, you or your authorised representative must have documentation supporting that your product conforms with UK regulatory requirements and retain this for up to ten years following the product's placement of the market. While different kinds of products are subject to different regulations, general records should always be kept with regard to product design, manufacture and conformity, as well as the manufacturer and storage facility addresses.

We understand that further government guidance is forthcoming. Meanwhile, if you require advice as to your obligations as a manufacturer, distributor or importer of goods on the UK market in light of the above, do not hesitate to contact our Regulatory & Compliance Team.



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