

Placing manufactured goods on the EU and UK internal markets- no deal Brexit guidance

On 19 March 2019, the Department for Business, Energy and Industrial Strategy (BEIS) published guidance for businesses **placing manufactured goods on the EU and UK internal markets**. The focus is on placing manufactured goods on the EU internal market if there's no deal and placing manufactured goods on the UK market if there's **no Brexit deal**.

❖ Major changes

- Businesses will be able to place goods on the UK market using either the **CE** or the **new UK conformity marking (“UKCA mark”)** for a limited time after 29 March 2019.
- Change of status from **distributor to importer** after EU Exit.
- **Transitional Period**: There will be an **18-month transitional period** from 29 March 2019 allowing importers importing goods from the EU or EEA to provide their details on the accompanying documentation rather than on the product label.
- New **authorised representative** must be based in the UK.
- After 29 March 2019 the **mutual recognition principle** will not apply to non-harmonised goods placed on the UK market.
- If you are a **non-UK business exporting non-harmonised goods to the UK after 29 March 2019** you will need to make sure that the **goods meet UK national requirements**, regardless of whether they were previously lawfully marketed in another EU country or in the UK.

What you will need to do after **EU Exit will depend on whether your goods are**:

- Regulated under the new approach
- Regulated under the old approach
- Non-harmonised goods subject to national regulation

New Approach Goods

There is now a distinction between **good placed on the market prior to 29 March 2019** and after this date, referred to as the new approach:

Goods are 'placed on the market' when they are made available on the market for the first time. If you have already placed a good on the market before 29 March 2019 then it can continue circulating after Brexit. **Check the specific EU goods regulations and directives covered by this section.**

Guidance in this section does not apply to construction products and medical devices. There's different guidance if you're placing **construction products or medical devices** on the UK market.

❖ **Essential requirements**

After Brexit the legal requirements that must be met before a good can be placed on the market in the UK will remain unchanged:

When we leave the EU the essential requirements (the legal requirements that must be met before a good can be placed on the market) applying to goods placed on the market in the UK will not change.

❖ **Conformity assessment**

Goods must still undergo conformity assessment:

Goods must undergo 'conformity assessment' to make sure that they comply with the essential requirements. External notified bodies assess whether some goods, including lifts and pyrotechnics, conform whereas the manufacturer can 'self-declare' others, such as toys.

❖ **Conformity assessment - new UK conformity marking**

The rules and regulations setting out the requirements for conformity assessment for each product will stay the same. **The UKCA mark will come into effect after 29 March 2019**, the UKCA mark will indicate that a product complies with UK regulations and can be placed on the UK market:

A new UK framework for conformity assessment will come into effect after 29 March 2019. The underlying rules and regulations setting out the requirements for conformity assessment for each product will stay the same.

The UKCA mark, a new UK conformity marking will indicate that a product complies with UK regulations and can be placed on the UK market.

UK notified bodies will become UK approved bodies. This represents their new status in law after we leave the EU, but their role in conformity assessment will not change. EU notified bodies are listed on the **NANDO database**. After we leave the EU you will be able to find details of UK approved bodies on a similar UK government database which the government will publicise ahead of EU exit.

If your goods are conformity assessed by a UK approved body, then where this is required by legislation, you must use the UKCA marking. This means you can place them on the UK market after 29 March 2019, but not the EU market. **Read the guidance on using the UKCA marking.**

Together, these measures mean that for a limited time, goods using either the CE or UKCA markings can be placed on the UK market. Self-declaration will be allowed as it is today.

❖ Using the CE marking in the UK

If you manufacture, import or distribute goods bearing the CE marking, then this will continue to apply after 29 March 2019. There are likely to be changes in connection with CE marking after EU Exit:

If you manufacture, import or distribute goods that meet the relevant EU regulatory requirements and bear the CE marking (or other applicable EU conformity marking, such as the 'wheelmark') you can still place them on the UK market after 29 March 2019. This applies whether the CE marking is used after the manufacturer has self-declared it, or after an EU-recognised conformity assessment body has assessed its conformity. This arrangement will be for a limited time. The government will give businesses notice before this period ends.

❖ Standards

The current EU 'harmonised standards' will be carried across as UK 'designated standards' to maintain a single standards model between the UK and the EU:

The role of standards in the regulatory framework for manufactured goods will not change when we leave the EU. The current EU 'harmonised standards' will be carried across as UK 'designated standards' to maintain a single standards model between the UK and the EU.

❖ The roles of economic operators

Some economic operators will get new legal responsibilities after Brexit.

❖ Distributors and importers

If you bring manufactured goods regulated under the new approach into the UK from the EU or EEA and want to place them on the market after 29 March 2019, your status will change from a 'distributor' to an 'importer'.

You'll need to meet all requirements with regard to:

- **Labelling** (Note transitional period)
- **Conformity assessment**
- Make sure that any good you import carries the correct **conformity markings**
- **Technical documentation**
- **Compliance** with the law
- **Monitoring of products.**

If you are a distributor whose status does not change, your legal obligations will remain largely unchanged after 29 March 2019.

❖ Manufacturers

If you are a manufacturer, your legal obligations will remain largely unchanged after 29 March 2019.

❖ **Authorised representatives**

If you intend to appoint a **new authorised representative after 29 March 2019**, the representative will have to be based in the UK. If you are placing goods on the market **before 29 March 2019** and have appointed an authorised representative based in the UK, EU, EEA, Switzerland or Turkey you can continue using them and **they will continue to be recognised in the UK**. If you are placing goods on the market **after 29 March 2019 and already have an authorised representative** based in the UK, EU, EEA, Switzerland or Turkey, then you can continue using them and they will continue to be recognised in the UK:

If you are placing goods on the market after 29 March 2019 and want to appoint a new authorised representative they will need to be based in the UK.

If you **are placing cosmetic products on the UK market**, you will need to have a responsible person based in the UK from 29 March 2019.

If you are placing goods on the market before 29 March 2019 and have appointed an authorised representative based in the UK, EU, EEA, Switzerland or Turkey you can continue using them and they will continue to be recognised in the UK.

If you are placing goods on the market after 29 March 2019 and already have an authorised representative based in the UK, EU, EEA, Switzerland or Turkey, then you can continue using them and they will continue to be recognised in the UK.

Old approach goods

Old approach goods are subject to detailed regulatory requirements and approvals by public bodies.

The relevant regulators have produced detailed guidance on goods subject to the old approach. You should check the guidance on:

- **Chemicals**
- **Medicines**
- ...

❖ **Non-harmonised goods**

After 29 March 2019 the mutual recognition principle will not apply to non-harmonised goods placed on the UK market. If you import non-harmonised goods into the UK after 29 March 2019 you will need to make sure they meet UK national requirements:

In the EU, non-harmonised goods are subject to the 'mutual recognition principle'. This is the principle of EU law under which EU countries must allow goods that are legally sold in another EU country to be sold in their own territory. After 29 March 2019 the mutual recognition principle will not apply to non-harmonised goods placed on the UK market.

If you import non-harmonised goods into the UK after 29 March 2019 you will need to make sure they meet UK national requirements.

If you are a non-UK business exporting non-harmonised goods to the UK after 29 March 2019 you will need to make sure that the goods meet UK national requirements, regardless of whether they were previously lawfully marketed in another EU country or in the UK.

❖ **Importing goods from non-EU countries**

You can meet your requirements for assessment in 3 ways, if you are importing goods that need third-party conformity assessment from a non-EU country:

You can meet your requirements for assessment in 3 ways:

1. You can have your goods assessed by a UK approved body, allowing them to be placed on the UK market.
2. You can have your goods assessed by an EU or EEA notified body, so they can be placed on the EU internal market and the UK market for a limited time.
3. You can have your goods assessed against EU requirements by using designated conformity assessment bodies for a limited time. The bodies need to be based in countries that have previously concluded mutual recognition arrangements in relation to conformity assessment with the EU. The countries covered are:

- Australia
- New Zealand
- Canada
- USA
- Japan
- Switzerland
- Turkey
- South Korea
- Israel

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Contact us.

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