HEA Guidance on UKCA, UKNI and CE Marking

This document gives additional and updated guidance to that contained in the HEA Guide to CPR and CE Marking.

UKCA, UKNI and CE Marking

The UKCA (UK Conformity Assessed) marking is the new product marking which demonstrates that certain goods are compliant with UK regulations and is used when these goods are placed on the market in Great Britain (GB). It covers all goods which previously required CE marking. It does not apply to existing stock, such as goods which were fully manufactured, CE marked and placed on the GB market before 1 January 2023. Further guidance on using the UKCA marking is available here.

For most goods, CE marked goods my still be placed on the market until 1 January 2023. From 1 January 2023 relevant products must be compliant with UK requirements and marked with the UKCA marking. The UKCA marking cannot be used for goods placed on the Northern Ireland market. The UKNI mark may be used alongside the CE mark to demonstrate conformity. Northern Ireland businesses can place qualifying Northern Ireland goods on the GB market with an EU conformity assessment marking, such as CE marking.

"Placed on the market"

A fully manufactured good is 'placed on the market' when a written or verbal agreement (or offer of an agreement) to transfer ownership or possession or other property rights in the product is exchanged. 'Placing a good on the market' means each individual good, not a type of good. It does not require the physical transfer of the good.

Proof of placing on the market can usually be provided on the basis of any relevant document ordinarily used in business transactions, including:

- contracts of sale concerning goods which have already been manufactured and meet the legal requirements
- invoices
- documents concerning the shipping of goods for distribution

For construction products, references in the GB regime to 'the market' mean the Great Britain market, rather than meaning the EU market. Apart from that, the definition is unchanged and so operators do not need to change their approach in this regard. See Article 2 in Regulation (EU) No 305/2011 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.

Designated standards

All existing harmonised European standards became UK 'designated standards'. This means that immediately after the end of the transition period, harmonised European standards and UK designated standards will be identical. The government has published, and will maintain, a list of these designated standards on GOV.UK.

UK 'Approved Bodies' and 'Technical 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 were granted new UK 'approved body' status and listed in a new UK database (the UK Market Conformity Assessment Bodies database). For construction products, UK-based technical assessment bodies became 'UK technical assessment bodies' on 1 January 2021, and are listed on the UKMCAB database.

Approved bodies are 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 became 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.

Conformity Assessment

Where self-declaration of conformity is permitted for CE marking this is also the case for UKCA marking.

Where mandatory third-party conformity assessment was required for CE marked goods, it is also required for UKCA marked goods. However, this conformity assessment needs to be carried out by a UK-recognised conformity assessment body in order to be marked with the UKCA marking. The type of conformity assessment procedures are the same that were required for the CE marking.

The UK Market Conformity Assessment Bodies (UKMCAB) database lists all bodies which can provide conformity assessment for the UK market.

Declaration of Conformity

The contents of the UK Declaration of Conformity vary depending on the product. Check what may be required through the relevant UK legislation with which the product complies.
The contents of the UK Declaration of Conformity vary depending on the product, however, it should include:

1. Product, type, batch or serial number.
2. Name and address of manufacturer / manufacturer's authorised representative.
3. Identification / description of actual product.
4. A statement that the product conforms with the relevant legislation.
5. Where applicable, references to any designated standards.
6. Where applicable, reference to the approved body that carried out any conformity assessment activity (name, number and description of activity).
7. Signature of manufacturer (or authorised representative, where there is one).

Using both the CE and UKCA marking

Both the CE and UKCA mark can be placed on a product so long as neither impedes the visibility of the other and the requirements of both the GB and EU legislation are met.

The essential requirements and standards that can be used to demonstrate conformity with them for UKCA marked goods have not changed. That means that if the good is currently made to the technical requirements necessary for CE marking then it will be made to the same technical requirements that exist for UKCA marking. However, the conformity assessment bodies that test them may need to be different.

Manufacturers appointment of an authorised or responsible person in the UK

Great Britain does not recognise authorised representatives and responsible persons based in the EU. If an authorised representative or responsible person is either needed or chosen, they will need to be based in the UK for products being placed on the GB market.

Manufacturers' Responsibilities

Manufacturers are responsible for:

- ensuring the product complies with the relevant GB rules
- drawing up documentation such as the declaration of conformity

Some of the duties may be delegated to an authorised representative – but the specific regulations that apply will need to be checked to confirm what can and cannot be delegated.

UK Distributors' and Suppliers' Responsibilities

Confirmation must be obtained as to whether the Distributor or Supplier will act as an 'importer'. An importer is an organisation which first brings goods from outside the UK and places them on the market in Great Britain. If someone has already placed a product on the UK market before a Distributor sells it in Great Britain, then the Distributor will not have any additional responsibilities.

As an importer, the following must be ensured:

- goods must be labelled with the importer company's details, including the company's name and a contact address. Until 31 December 2022 these details can be provided on the accompanying documentation rather than on the good itself if certain goods are imported from the EEA (and in some cases Switzerland). After 31 December 2022, the details must be affixed to the product or, in circumstances where the legislation allows, on the packaging or an accompanying document
- the correct conformity assessment procedures have been carried out and that goods have the correct conformity markings
- the manufacturer has drawn up the correct technical documentation and complied with their labelling requirements
- a copy of the declaration of conformity must be maintained for a period of 10 years
- goods conform with the relevant essential requirements

Placing goods on the GB market from the EU market if the business is in Northern Ireland

If a Northern Ireland business is selling goods on the GB market that have been supplied to a Distributor from the EU market, the Distributor become an importer under GB rules. The following must be ensured:

- goods must be labelled with the company's details (or accompanying documentation depending on the requirements for that good) including the Distributor's name and a contact address
- the correct conformity assessment procedures have been carried out and the goods have the correct conformity markings, which will be EU conformity markings
- the manufacturer has drawn up the correct technical documentation
- goods conform with the relevant essential requirements, which could be EU requirements that the Protocol applies to Northern Ireland
- action is taken by the Distributor if the good is unsafe by making it safe, withdrawing it from sale, or recalling it

Accepted markings for the GB market

Goods may require different markings for different markets. The table below illustrates the accepted markings for the GB market.

Type of good	Accepted marking or combination of markings*
Placing goods (which are not qualifying Northern Ireland goods) on the market in Great Britain	
Construction product being placed on the GB market until the end of 2022	UKCA or CE or CE & UK(NI)
Construction product placed on the GB market from 1 January 2023	UKCA
Placing qualifying Northern Ireland goods on the market in Great Britain (unfettered access)	
Construction product which is a qualifying Northern Ireland good being placed on the GB market under unfettered access provisions from January 2023	CE or CE & UK(NI)

*Combinations of the product markings listed in each box may be used and the goods may be acceptable with more than one marking. This is the UK's position and it will be for the EU to determine the arrangements that apply for placing goods on the EU market.

Legislative References

- The Product Safety and Metrology etc (Amendment etc) (EU Exit) Regulations 2019 (and other legislation referenced therein)
- The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (and other legislation referenced therein)
- The Construction Products (Amendment etc.) (EU Exit) Regulations 2020 (and other legislation referenced therein)