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UKCA mark for machinery

28th October, 2020

What is 'UKCA marking'?

- New UK product marking for certain goods (including machinery*) placed on the market in Great Britain
- For GB, it replaces the CE marking (slightly different for Northern Ireland)
- It's happening because of Brexit!
- Starts 1st January, 2021

UK
CA

* as defined in the regulations

Why the change?

- The UK regulations relating to CE-marking machinery* have many references to EU processes and legislation
- In the absence of an agreement, keeping everything the same would not constitute Brexit!
- There will now be two sets of requirements for manufacturers supplying machinery into Europe (i.e. the EU and the UK)

* = The Supply of Machinery (Safety) Regulations 2008



Timescales - where are we?

- We are in a negotiation / Transition Period (TP) until 31st December 2020,
 - the possible allowed period for an extension has now expired.
 - ‘Brexit’ is considered to be in the past, we are in the “Implementation Period”.
- The UK ‘Transition Period’ or ‘Implementation Period’ lasts until 11pm GMT 31st December 2020.
 - Otherwise known as “IP completion day” (Implementation Period completion day).
- CE marking still applies during the implementation period for placing machinery on the UK market.

Timescales - where are we?



Laws

- Brexit has required significant changes to UK law
- There have been Acts*, which allow changes due to Brexit to be implemented by Statutory Instruments (SIs)
- The detailed changes have been implemented by 'EU exit SIs – over 600 of them, including the longest SIs ever!
- There are several SIs relating to CE marking transitioning to UKCA marking

* European Union (Withdrawal) Act 2018, European Union (Withdrawal Agreement) Act 2020

Laws

- These SIs have amended the original CE marking regulations rather than replacing them
- Due to evolution of the Brexit arrangements, there are multiple SIs which correct, amend and amend amendments!
- The main SI is the “mega SI” UK SI 2019 No.696 (including the UKCA marking requirements)

Example UK SI - 2020 No. 852

- The Product Safety and Metrology Amendment (EU Exit) Regulations 2020 (**UK Statutory Instrument 2020 No. 852**).
- Coming into force on ‘IP Completion day’

This Statutory Instrument has been published, in part, to correct an error in S.I. 2019/696 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2020 No. 852

EXITING THE EUROPEAN UNION

CONSUMER PROTECTION

ELECTROMAGNETIC COMPATIBILITY

ENVIRONMENTAL PROTECTION

HEALTH AND SAFETY

TELECOMMUNICATIONS

WEIGHTS AND MEASURES

The Product Safety and Metrology (Amendment) (EU Exit)
Regulations 2020

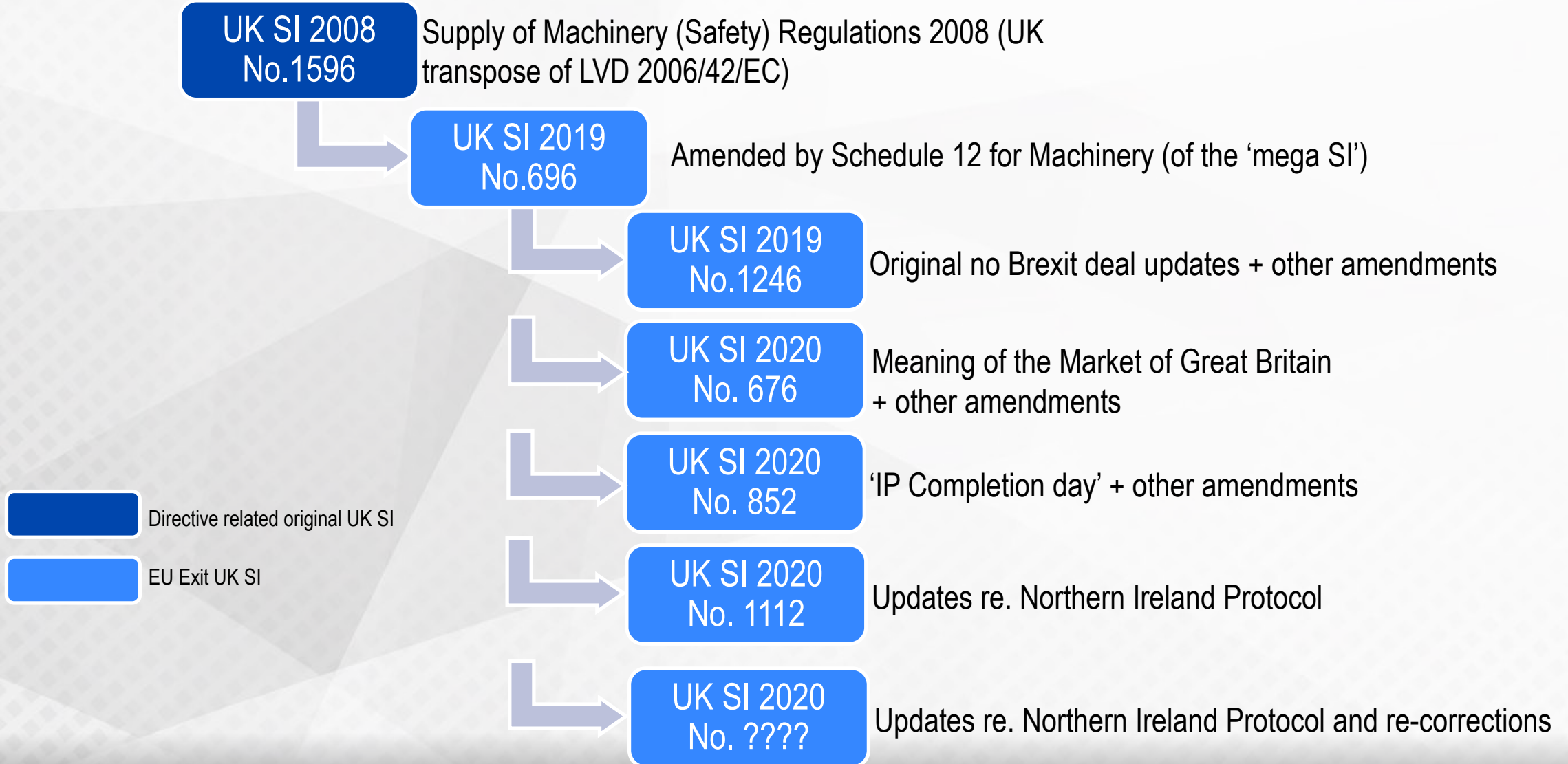
Sift requirements satisfied 16th July 2020

Made - - - - 11th August 2020

Laid before Parliament 12th August 2020

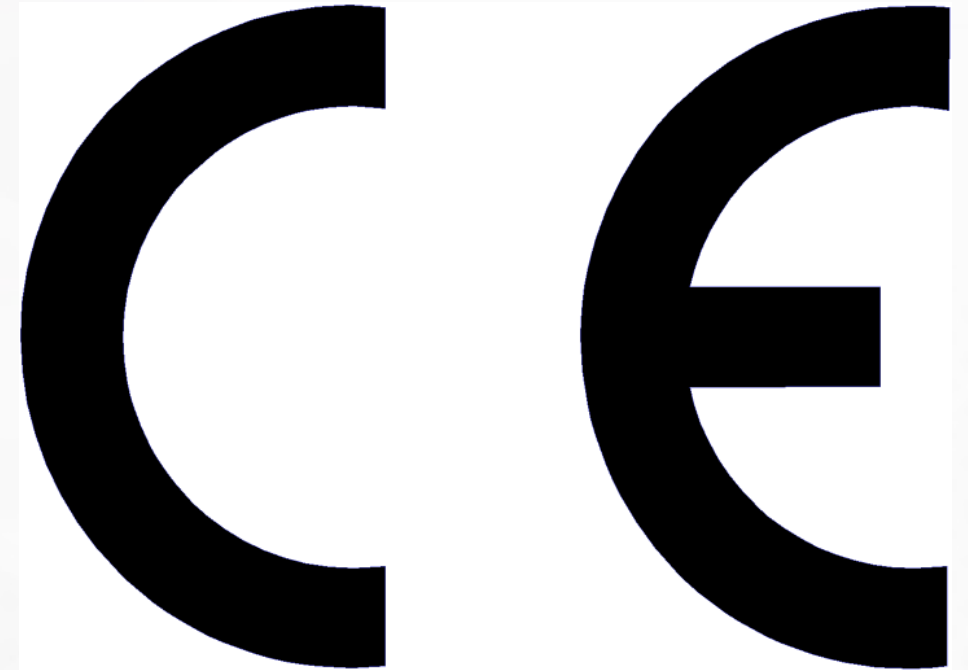
Coming into force in accordance with regulation 2

EU Exit SI amendments for Machinery



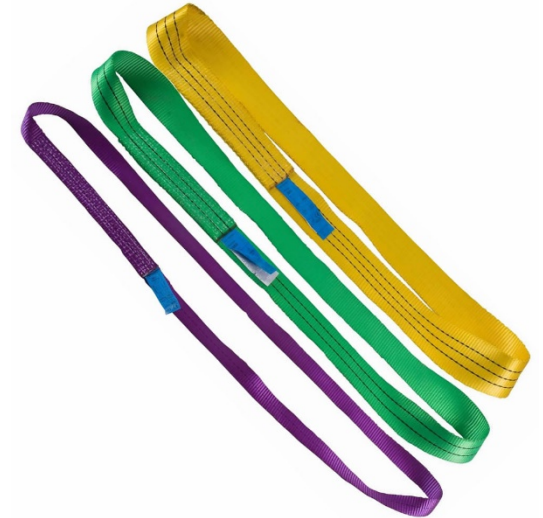
What is CE marking? Basics

- Marking required for certain products – including machinery – supplied in the EU
- Indicates the product meets applicable requirements regarding its design
- Originated with EU Directives to support free movement of goods
- Required by EU member state laws



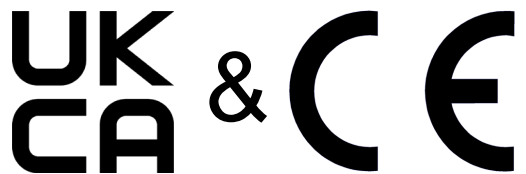
What is 'machinery'?

UK
CA & CE



Who are the duty holders?

- Manufacturers
- Authorised representative
- Importers
- Distributors



What are the requirements for manufacturers?

- Essential health and safety requirements
 - Requirements for the design, marking and instructions
- Conformity (attestation?) requirements for all machinery
 - The mark
 - Declaration
 - Technical File (TF)
- Conformity assessment procedures

Either

 - assessment of conformity with internal checks on the manufacture, or
 - type-examination procedure plus the internal checks on the manufacture, or
 - full quality assurance

*No
change !*

Changes!

UKCA Mark requirements and terminology – with some updates

EU	UK	Comment
CE Mark	UK Marking	UKCA Mark required for products as defined in Schedule 33 of the UK Product Safety and Metrology EU Exit Regulations 2019 (UK Statutory Instrument 2019 No. 696). Rules are the same as CE rules with respect to size for example. UKCA marking also required on products not using a UK approved body. UKCA marking with a UK approved body number required for products using for example Module H conformity (in the same way as EU directives).
EU Notified Body	UK Approved Body	Approved by the UK Secretary of State (some amendments use the term UK Designated Body) No UK Approved Bodies have been designated to date (although Marine MSN 1874 Amendment 3 already lists UK Approved Bodies)
EC Europa NANDO Notified Body list	UK based list of approved bodies	The UK will have a separate list for UK approved bodies. The UK Approved Body list has not been released to date.

UKCA Mark requirements and terminology – with some updates

EU	UK	Comment
Harmonised Standard	Designated Standard	Designated by the UK Secretary of State No current additional information available on how the process will work. Initially Designated Standards will follow EU Harmonised Standards.
Official Journal cited Harmonised Standard	UK designated standard list	The UK will have a separate list of designated standards No current additional information available on how the process will work.
EU Declaration of Conformity	Declaration of Conformity	The UK Declaration of Conformity will need to reference UK statutory instrument compliance + amendments? Also considering for example essential requirement directive references may have changed in the UK SI implementation. The UK Declaration of Conformity will need to reference designated standards and a UK Approved Body if applicable.

What are the changes to the mark, declaration, TF?

	Supplied to EU	Supplied to GB	Supplied to NI
The Mark			
The Declarations	EU Declaration of Conformity/Incorporation	(UK) Declaration of Conformity/Incorporation – referring to UK legislation	 
The Technical File	Must be available via someone in the EU	Must be available via someone in the UK. In English	Must be available via someone in the EU

What about Declarations of Conformity?

- Products being placed on the UK Market with UKCA marking will need to be supported by a UK Declaration of Conformity.
- UK Declarations of Conformity will follow the same requirements as EU Declarations of Conformity except –
 - UK DoCs will need to refer to UK Statutory Instruments as these contain the essential requirements (noting these may have different references in the UK SI).
 - UK DoCs will need to reference UK Designated Standards (when available).
 - UK DoCs will, if applicable / required reference a UK Approved Body rather than an EU Notified Body.

GB manufacturers supplying to GB

- No changes to machinery design
- Apply UKCA mark
- Issue (UK) Declaration of Conformity
 - Refer to UK legislation
- Keep TF in GB
- Use the same standards as before – but they will be known as ‘designated’ standards rather than ‘harmonised’ standards
- Use UK approved body, if needed

EU & ROW manufacturers supplying to GB

- No changes to machinery design
- Apply UKCA mark
- Issue (UK) Declaration of Conformity
 - Refer to UK legislation
 - Refer to UK entity as contact point for TF
- TF does not need to be on UK soil
- Use the same standards as before – but they will be known as ‘designated’ standards rather than ‘harmonised’ standards
- Use UK approved body, if needed

GB manufacturers supplying to EU

- Do exactly the same as required before Brexit
 - No changes to the design
 - Issue EU Declaration – referring to Directives and harmonised standards
 - Apply CE marking
 - Hold Technical File (in GB)

But:

- The manufacturer will no longer be in the EU!

Therefore:

- There will be either an EU authorised representative (not common), or an EU importer, as opposed to a distributor.
- There will need to be a EU entity identified on the Declaration as the point of contact for the TF.
- Need to use EU Notified Body (of which there are none in the UK)

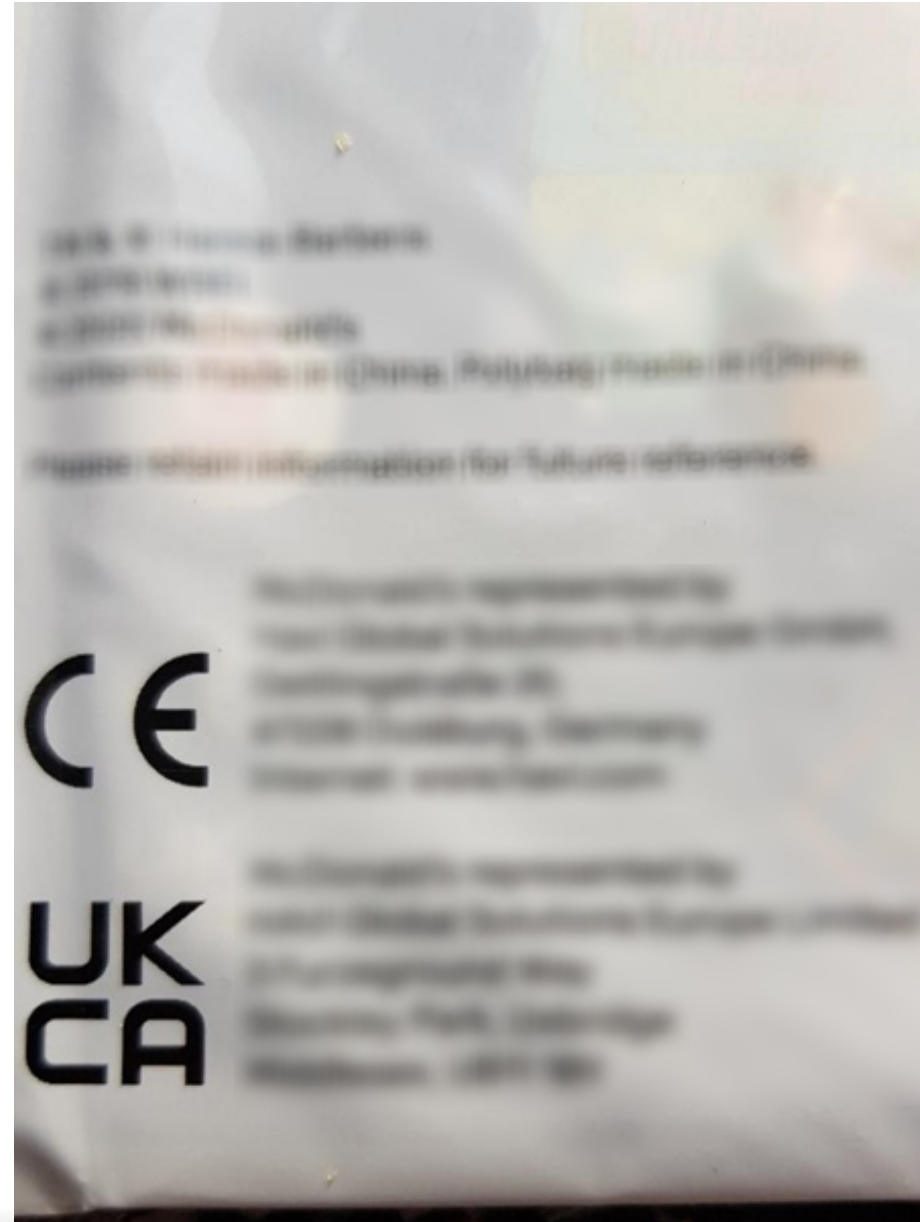
Note : this would be exactly the same as a non-EU manufacturer previously

Distributors and Importers

- Previous UK distributors of EU CE-marked machinery into the UK now become importers of UKCA marked machinery
- Likewise, EU distributors of UK CE-marked machinery into the EU now become importers
- Distributors must ensure that the machinery has the appropriate instructions, marking and Declaration
- Importers have the additional obligation of ensuring that the appropriate conformity assessment procedures have been followed.

Can we UKCA mark now?

- According to statements from the UK Government Department for Business, Energy and Industrial Strategy (BEIS) yes.
- and there is some evidence of manufacturers already doing this.



All the SI amendments could make UK Type Examination Certificates and Declarations of Conformity a bit complex without abbreviations i.e.

CERTIFICATE ◆ CERTIFICADO ◆ CERTIFIKAT ◆ 認證證書





UK Type Examination Certificate

Certificate No: ADD CERT NO

Certificate Holder: 	Testkunde GmbH Testkunde Name2 Testkunde Name3 Zus. Strasse Testkunde 1 Zus. Strasse Testkunde 2 Einbahnstrasse 44 62 80000 München GERMANY
Product Type:	Product Term Dummy ADD PRD TERM
Model(s):	Model 1 Model 2 Model 2b Model 2c

We, TUV SUD BABT Unlimited, as UK Approved Body number XXXX, have examined the technical documentation and supporting evidence for the above listed equipment and found it to comply with the requirements of the UK Radio Equipment Regulations 2017 (UK Statutory Instrument 2017 No. 1206) as amended by Schedule 29 of The UK Product Safety and Metrology EU Exit Regulations 2019 (UK Statutory Instrument 2019 No. 696) and reamended by The Product Safety, Metrology and Mutual Recognition Agreement (Amendment) (EU Exit) Regulations 2019 (UK Statutory Instruments 2019 No. 1246) and as reamended by the Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (EU Exit) Regulations 2020 (UK Statutory Instrument 2020 No. 676) and as reamended by the Product Safety and Metrology Amendment (EU Exit) Regulations 2020 (UK Statutory Instrument 2020 No. 852).

In relation to the following essential requirements covered by the examination.

Essential Requirements (SI 2017 No. 1206):	6 (1) (a) - Health and Safety
	6 (1) (b) - EMC
	6 (2) - Radio Spectrum

This is based upon examination of the following Technical Data File. Please refer to the Annex for further technical details.

from CBW 2.0 - Test System (Build - 20200604.1)

- An abbreviated method of presenting multiple SIs and amendments could be –
- Radio Equipment Regulations 2017 (UK SI 2017/1206) as amended by -
 - SI 2019/696
 - SI 2019/1246
 - SI 2020/676
 - SI 2020/852
 - SI 2020/XXXX (number TBC) etc.
- The legal acceptance of stating compliance to UK SI 2017/1206 as amended only needs to be considered.

What else does the 'Mega SI' 2019 No. 696 amend?

- Other CE/UKCA regulations also apply (in addition to the machinery requirements) to many types of machinery.

E.g.

- EMC
- RoHS
- Pressure Equipment
- Noise of Outdoor Equipment

Approved standards

- Standards are not currently expected to change
- BSI are still going to participate in the production of EN standards – feeding into harmonisation
- The inclusion of standards into the list of approved standards which provide a presumption of conformity to the essential health and safety requirements of the GB regulation is made by the Secretary of State

Guidance – on transition from CE to UKCA

- There is existing, albeit high-level guidance on the gov.uk website at the following:
<https://www.gov.uk/guidance/using-the-ukca-mark-from-1-january-2021>
<https://www.gov.uk/guidance/placing-manufactured-goods-on-the-market-in-great-britain-from-1-january-2021#legislation>
- Detailed guidance on each EU exit SI is provided on the legislation.gov.uk website
- The UK government release an update to the UK Marking no deal Brexit guidance currently withdrawn –
 - <https://www.gov.uk/guidance/prepare-to-use-the-ukca-mark-after-brexit>
 - which would appear to of been delayed due to the current Covid 19 problems

Guidance – on UKCA

- The main source of detailed ‘official’ guidance regarding the Machinery Directive is issued by the European Commission – ‘Guide to application of the Machinery Directive 2006/42/EC Ed. 2.2’
 - 465 pages long
 - This will not be (wholly) applicable to the UK regulations.
 - We are not aware of a UK equivalent
 - The content of the EC guidance associated with the essential requirements will remain valid for the GB regulations.

- The European Commission’s ‘Blue Guide’ provides detailed guidance on the general principles of CE marking
 - 156 pages long
 - We are not aware of a UK equivalent
 - UKCA will follow many of the underlying principles

Sunset provision

- CE-marked machinery can be supplied in the UK for a period of 12 months after IP completion day
- UKCA marking can be affixed (sticker?) rather than permanently marked, for a period of 24 months after IP completion day

What will happen next?

- Trade agreement?
- Limited timescales before IP completion day
- Enforcement after IP completion day
- Further SIs – corrections
- Issuing of detailed authoritative guidance



Continued TÜV SÜD support

- To enable our UKCA team to effectively answer all of your questions and enquiries please could you direct these to the following email address:

ukca.uk@tuvsud.com

- On our website we have several recourses available to help you understand and keep up to date with the evolving subject of UKCA including our UKCA Blog and FAQ webpages:

www.tuvsud.com/en-gb/ukca-blog

www.tuvsud.com/en-gb/ukca-faq

- TÜV SÜD will also be launching a new UKCA Technical Advisory Service in November to help provide additional support for our customers, keep an eye out for the launch of this new service. If you require Technical Advisory on UKCA you can begin coordinating now with our team of experts ready for the service arrival by getting in contact at ukca.uk@tuvsud.com