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UK TRANSITION



UK Transition Business Forum

Thursday 4 February 2021

**NEW RULES FOR BUSINESS
WITH EUROPE ARE HERE**

CORRECT AS OF 04.02.21

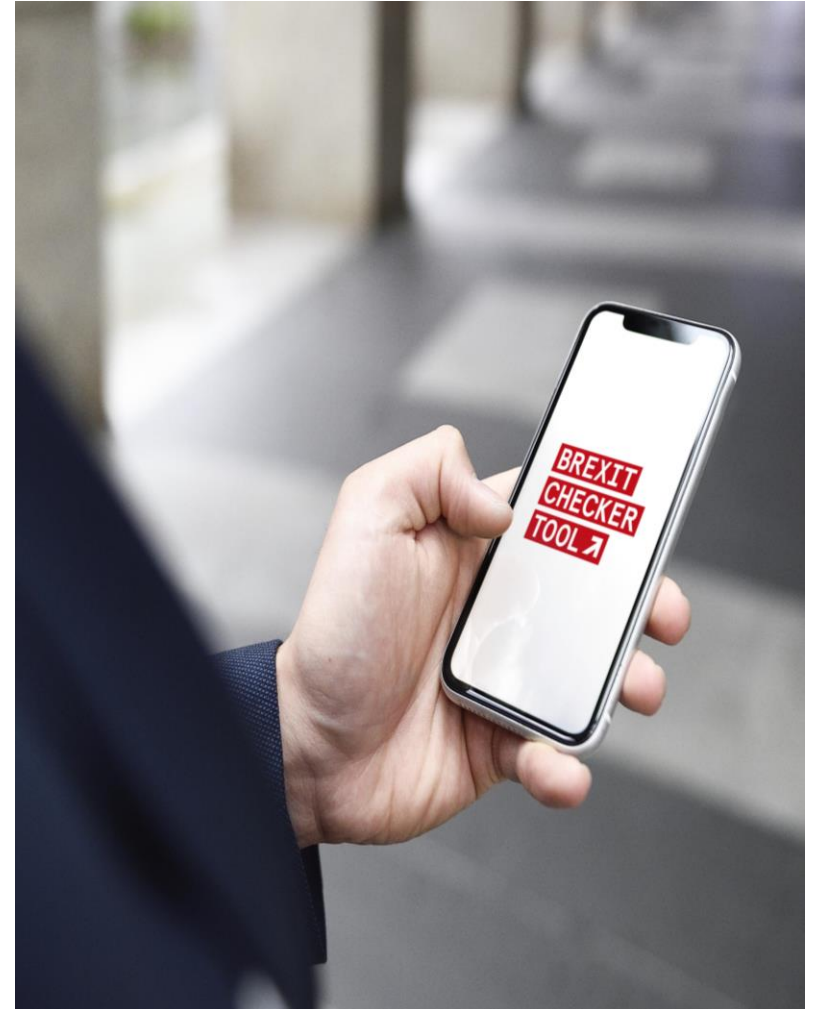
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Agenda

14:00 – 14:05	Introduction	Andy Harrison, <i>Department for Business, Energy and Industrial Strategy</i>
14:05 – 14:15	Goods update	Benedict Lucken, <i>Department for Business, Energy and Industrial Strategy</i>
14:15 – 14:25	Goods Q & A	
14:25 – 14:40	Northern Ireland update	Elinor Paterson, <i>HMRC</i>
14:40 – 14:55	Northern Ireland Q & A	
14:55 – 15:00	Wrap-up	Andy Harrison, <i>Department for Business, Energy and Industrial Strategy</i>

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Manufactured goods regulation

Placing goods on the market in GB and NI

Speaker: Ben Lucken

Department for Business, Energy and Industrial Strategy

Slides accurate as at 2nd February 2021

- Check
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- Go

PLACING GOODS ON THE MARKET

What does my business need to know?

Check which regulations apply to your product: this presentation will focus on new approach goods. Guidance for other products can be found on [gov.uk/transition](https://www.gov.uk/transition)



New Approach

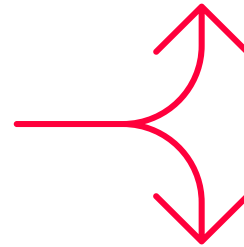
Goods with a CE marking may be placed on the GB market until 1 January 2022 e.g. Toys, PPE, machinery.

It is longer in some cases e.g. medical devices. Different rules apply to NI.



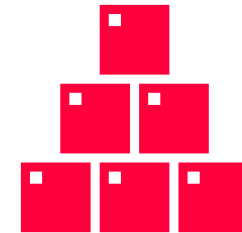
Old Approach

Rules under standalone regulation models depend on specific goods, e.g. Chemicals, Vehicles, Aerospace.



Non-Harmonised Goods

Mutual recognition no longer applies to non-harmonised goods, e.g. Furniture.



Other Goods

There are now special rules for some goods including medical devices, cosmetics, construction products, civil explosives, and products requiring eco-design and energy labelling.

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KEY ACTIONS FOR BUSINESSES

Since 1 January 2021 the essential requirements and standards that can be used to demonstrate compliance will be the same. However, there may be other changes you need to make. Separate guidance for specific sectors can be found on GOV.UK.

Check:

- Which regulations apply to your product
- If you need a new product approval and begin the process as soon as possible
- If you need to appoint a new representative to act on your behalf
- Your supply chains / distributors and understand new legal duties
- What marking / labelling changes apply to your product

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PLACING NEW APPROACH GOODS ON THE MARKET

What does my business need to know?

- If you had already placed CE marked goods on the EU or UK markets before 1 January 2021, you do not need to take any action for those goods. Placing on the market refers to individual goods, not types of goods.
- Businesses should take steps to comply with the new domestic regime.
- CE marked goods that meet EU and GB requirements can continue to be placed on the GB market in most cases until 1 January 2022.
- If you are placing manufactured goods on the EU market you must comply with EU requirements.

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ENSURE NEW APPROACH GOODS ARE LABELLED CORRECTLY

What does my business need to know?



CE Marking

- If businesses self-declare or use an EU Notified Body, they can still use the CE marking until 1 January 2022 for goods placed on the GB market (more in some cases). In this case, businesses can use their EU Declaration of Conformity until 1 January 2022.
- The CE marking is still required for products placed on the EU market.
- You can place the UKCA and CE marking on the same product if it is destined for both the GB and EU markets so long as the product meets the rules for both markets.



UKCA Marking

- New Approach goods assessed against GB rules by a GB 'Approved Body' will need the UKCA (UK Conformity Assessed) marking and a UK Declaration of Conformity.
- You can self-declare for the UKCA marking, as you can with the CE marking.
- Since 1 January 2021, the essential legal requirements that businesses must meet did not change. All harmonised standards became 'designated standards'.



SCAN NOW FOR
INFO ON:
DESIGNATED
STANDARDS

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TIMELINE FOR UKCA

What does my business need to know?

Now (2021)

You can use the UKCA marking. In some cases, you need to use it right now.

From 1 January 2022

You will need to use UKCA for most goods* from 1 January 2022.

From 1 January 2023

The UKCA marking must, in most cases, be affixed directly to your product.

On 16 July 2021

Market Surveillance and Compliance of Products Regulation (EU) 2019/1020 comes into effect, which means you may need to appoint an EU representative if there is no other economic operator in place (when exporting to the EU and NI).

Until 1 January 2023

For most goods, you can affix the UKCA marking on a label affixed to the product or on an accompanying document.

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* The CE marking will continue to be recognised in GB until 30 June 2023 for medical devices. Make sure you consult the sector specific guidance.

CHANGES TO CONFORMITY ASSESSMENT BODIES FOR NEW APPROACH GOODS

What does my business need to know?



- **NI market:** UK bodies approving for the NI market will remain 'Notified Bodies'. These 'Notified Bodies' can be based anywhere in the UK. EU bodies will continue to be recognised as competent to certificate for the NI market.
- **GB market:** All UK-based 'Notified Bodies' have automatically become UK 'Approved Bodies' for the GB market as of 1 January 2021. You can find details of UK bodies on the UKMCAB database.
- **EU market:** As of 1 January 2021 mandatory conformity assessments by UK bodies are not recognised in the EU.



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UKMCAB DATABASE

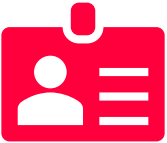
CHECK LEGAL RESPONSIBILITIES FOR NEW APPROACH GOODS

What does my business need to know?

The responsibilities of 'economic operators' who deal with CE or UKCA marked goods changed on 1 January 2021. Economic operators include manufacturers, importers, distributors and authorised representatives.



UK-based distributors of EU goods may become 'importers' - and vice-versa. Compared to distributors, importers have additional duties to ensure products are compliant with product standards and must ensure their address is on a product.



Authorised Representatives must be based in GB or NI for the GB market. GB-based Authorised Representatives aren't recognised in the EU.

On 16 July 2021, Regulation (EU) 2019/1020 – Market Surveillance and Compliance of Products Regulation – comes into effect, which means you may need to appoint an EU representative if there is no other economic operator in place (when exporting to the EU and NI).

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PLACING GOODS ON THE NI MARKET

What does my business need to know?

- The Ireland/Northern Ireland Protocol is now in force. For as long as it applies, goods placed on the market in NI will need to meet relevant EU rules.
- The CE marking will continue to be relevant marking for most goods. If you self-declare for CE, you can continue to do this when placing goods on the NI market.
- The CE marking will need to be accompanied by the UKNI marking if you use a UK Notified Body to assess against EU rules. This is now the case and this rule applies to existing stock that was not already placed on the market by the end of the 2020 (if that existing stock was assessed against relevant EU rules by a UK Notified Body). **Goods with the 'CE UKNI' marking are not valid for the EU market.**
- You never apply the UKNI marking on its own. It always accompanies the relevant EU conformity marking.
- If you use an EU Notified Body, you will only need to use the CE marking.
- The UKCA marking alone will not be valid for the NI market.

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UK
NI

PLACING QUALIFYING NI GOODS ON THE GB MARKET

What does my business need to know?

- The Government has guaranteed Unfettered Access* for qualifying Northern Ireland goods to the rest of the UK market.
- This means that qualifying Northern Ireland goods marked with the CE marking or CE plus UKNI marking can be placed on the GB market, even if EU and GB rules diverge.
- For highly regulated goods (e.g. chemicals and medicines), which pose a particular risk to the consumer, some basic information will need to be provided to the GB market regulator to place that good on the GB market. There is detailed guidance for these goods on gov.uk.
- Guidance is also available on gov.uk on how you can check whether your goods qualify for the arrangements in place to support NI's unfettered access to the rest of the UK market.

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* There will be only extremely limited exceptions to this for certain controlled products, for example the movement of radioactive waste.

IMPORTER RESPONSIBILITIES AND NI

Have my responsibilities changed?

There are now changes to the responsibilities of businesses importing goods within the UK.



NI importers of GB goods - You are an importer if you bring goods into NI from GB or another non-EU country and place them on the NI market. This is due to the rules that apply in NI under the Protocol. You need to make sure goods are labelled with your details, among other responsibilities. The measure on providing address details on e.g. an accompanying document, does not apply to NI importers of goods from GB, due to the Protocol.



Placing goods on the GB market from outside the UK – You are an importer if you are an NI business placing goods from outside the UK on the GB market. This includes where they have come from the EU via NI and means they will need to be labelled with your details, for example. NI businesses benefit from Unfettered Access, meaning qualifying goods can use the CE or CE UKNI marking, for instance, even if EU and GB rules diverge.

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FIND OUT MORE ABOUT PLACING GOODS ON THE MARKET

Placing goods on the market



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PLACING GOODS ON THE GB
MARKET



SCAN NOW FOR INFO ON:
PLACING GOODS ON THE EU
MARKET



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PLACING GOODS ON THE MARKET
IN NORTHERN IRELAND

Product markings



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USING THE UKNI MARKING



SCAN NOW FOR INFO ON:
USING THE UKCA MARKING

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FIND OUT MORE ABOUT PLACING GOODS ON THE MARKET

Conformity assessment bodies and accreditation



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CONFORMITY ASSESSMENT AND
ACCREDITATION



SCAN NOW FOR INFO ON:
APPLYING TO BE A UK CONFORMITY ASSESSMENT BODY FOR
PRODUCT SAFETY AND METROLOGY

Moving goods into, out of, or through Northern Ireland



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MOVING GOODS BETWEEN NI
AND GB

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FIND OUT MORE ABOUT PLACING GOODS ON THE MARKET

Qualifying Northern Ireland goods



SCAN NOW FOR INFO ON:
HOW TO CHECK IF YOU QUALIFY FOR UNFETTERED ACCESS

Product safety and metrology regulations



SCAN NOW FOR INFO ON:
SPECIFIC PRODUCT SAFETY AND METROLOGY REGULATIONS

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For any queries on this guidance, please email us at: goodsregulation@beis.gov.uk



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Trading with Northern Ireland

Elinor Paterson, HMRC

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UK-EU Free Trade Agreement

The Trade and Cooperation Agreement signed between the UK and EU gives tariff free access for trade between the UK and EU.

Goods must meet the origin requirements set out in the agreement to claim the preferential tariff.

- Goods entering the EU must meet UK origin requirements
- Good entering GB must meet EU origin requirements

Where goods enter NI the preferential tariffs available under the TCA can be used to reduce the EU tariff to zero

- GB-NI – this means goods automatically enter NI tariff free and the business does not need to consider whether the goods are ‘at risk’
- In this case an authorisation under the UKTS would not be required to move goods into NI tariff free

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Tariffs in the NI Protocol - Background

RoW to NI movements

Goods “not at risk” = UK tariffs

Goods “at risk” = EU tariffs

UK tariffs include preferential tariffs from UK trade deals, subject to Rules of Origin.

EU to NI movements

No “at risk” test – all goods in free circulation treated the same

This means no tariffs or customs controls on EU to NI movements, including across the NI/IE land border

GB to NI movements

Goods “not at risk” = Zero tariffs

Goods “at risk” = EU tariffs

UK goods can enter NI tariff-free under the UK/EU TCA, subject to Rules of Origin.



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At risk goods (1)

Businesses will have a range of options to reach the right outcome on the application of tariffs for goods movements into NI.

Good always at risk:

- Goods subject to commercial processing in NI and the additional processing criteria is not met
- Goods from outside the UK/EU where the EU duty is more than 3% greater than the UK duty

Goods automatically NOT at risk

- Goods where the UK duty is equal to or higher than the EU duty

For GB-NI movements there is no UK duty so this would cover goods where the EU tariff is zero

A business may use the UK-EU TCA to claim a preferential rate of duty on entry to NI where origin requirements are met

- This would mean the goods are automatically not at risk

A business does not require a UK Trader Scheme authorisation to declare these goods not at risk

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At risk goods (2)

A business may register for the UK Trader Scheme, allowing them to declare their goods 'not at risk', where the goods meet the criteria below.

Goods which may be declared not at risk:

- Goods for sale to or final use by, end-consumers located in the UK
 - for example, goods for sale in retail stores
- Goods for business use in NI
 - for example, a business purchasing stationery, or a farmer purchasing a tractor

A business does not need to provide supporting evidence as part of its declaration, but must hold evidence, which may be examined by HMRC on request

Examples of evidence:

- Commercial receipts and invoices
- Commercial contracts and purchase orders
- Delivery receipts, consignment notes

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Commerical processing

Goods brought into NI for processing are automatically at risk, unless the business meets one of the criteria:

- Small processor – businesses with an annual turnover less than £500,000 pa
- Approved processing sectors
 - Sale of food to end-consumers in the UK
 - Construction in NI
 - Not for profit activities in NI
 - Goods for use in health or care in NI
 - Final use of animal feed in NI

Other than the sale of food the processing must be carried out by the business moving the goods into NI

Businesses who meet these criteria must inform HMRC of this when applying for the UKTS. Once authorised they may declare goods for processing not at risk. They must keep supporting evidence.

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UK Trader Scheme

- To declare goods not at risk a business must be authorised to use the UK Trader Scheme
- Open to businesses in all sectors and of all sizes

Criteria:

- Established in NI, or
- Established in GB
 - and have customs operations carried out in the UK
 - and have indirect representation in NI
 - and have a fixed place of business in NI where records are available and where goods are sold to, or provided for final use by end-consumers, and
- Have no history of serious customs or tax infringements or other similar criminal offences of an economic nature, and
- Have sufficient controls of operations and record keeping to ensure can provide evidence to support not at risk declarations

If you supply goods to a business in Northern Ireland but do not have a fixed address in Northern Ireland

Temporary approach if:

- you do not have a fixed address in Northern Ireland
- you supply goods to a business in Northern Ireland which has a fixed place of business from where those goods are provided for, or sold to end consumers, and that business is either:
 - provisionally authorised under the UK Trader Scheme
 - could be provisionally authorised, were they the importer of those goods
- To be provisionally authorised to declare goods not 'at risk', you must
 - meet all of the other UK Trader Scheme criteria
 - be able to declare not 'at risk' for end-use or sale to end consumers in the UK

There is further detail on the application process on [gov.uk](https://www.gov.uk)

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Waivers

Businesses can claim a waiver for duty on goods brought into Northern Ireland from Great Britain which might otherwise incur 'at risk' tariffs if they have not exceeded the allowances set out below at the point the import declaration is submitted.

How much you can claim

- If you are eligible to claim a waiver you must do this at the point your import declaration is submitted.
- Waivers for duty on goods that would otherwise incur 'at risk' tariffs are provided in the form of 'de minimis aid'.
- This is measured in euros.

Allowances and de minimis aid

Most businesses can claim up to a maximum of €200,000 of aid over 3 tax years, lower allowances apply for certain sectors.

The period of 3 years is assessed on a rolling basis.

The maximum allowance includes all de minimis aid you claim over a period of 3 tax years such as:

- de minimis aid unrelated to waivers for Customs Duty
- de minimis aid granted through any other scheme - such as [Employment Allowance](#)

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