



Recent BREXIT changes - how does this effect your business?

27 September 2022

Overview



Objective of today's session:

- To look at the Government Guidance on “ Using the UKCA marking” (<https://www.gov.uk/guidance/using-the-ukca-marking>) (10th August 2022)
- To look at the Government Guidance on “ Non-Automatic Weighing Instruments Regulations for GB” (<https://www.gov.uk/government/publications/non-automatic-weighing-instruments>) (July 2022)
- To look at the Government Guidance on “Non-Automatic Weighing Instruments Regulations for NI” (<https://www.gov.uk/government/publications/non-automatic-weighing-instruments>) (May 2022)
- These Guidance notes do not have legislation behind them – but it is intended that they will have by the end of the year
- They change and are updated regularly – if you look at the them be mindful of the dates

Current legal metrology landscape



- From the 1 January 2023 the CE mark will cease to have affect in GB and all instruments first placed on the market or put into service will come under the UKCA marking requirements
- Before the issuing of the recent Guidance this was understood to mean that only a type-examination certificate (Module B certificate) issued by a UK approved body would be acceptable in GB
- This would be the same for conformity to type based on quality assurance of the production process based (Module D certificate) - known as self-verification.
- This explains the effort and money that has been put into ensuring that companies had the appropriate certification to continue trading

- Problem compounded by the departure of the NMO from the market

- However...

New legal metrology landscape - Module B



- It will be possible to continue to use Module B certificates issued by a EU27 notified body until they expire or the 31 December 2027- whichever is the sooner
- This will allow manufacturers to apply the UKCA mark without the need for any UK - recognised CAB involvement and continue to place their goods on the GB market, based on an existing CE type examination completed before 31 December 2022, for the lifetime of the certificate issued, or until 31 December 2027.
- Any new Module B certificates after the 31 December 2022 will need to be done by a UK approved body
- Amendments will continue to be be able to be used until the certificate expires
- Strong advice to continue transitioning the EU27 Module B certificates – this gives us a little extra time
- But not as long as you may think...

New legal metrology landscape - Module D



- The same easement will apply to Module D
- They can be used until they expire or the 31 December 2027
- Module D certificates will list the Module B type examinations that you are permitted to verify
- If you choose to continue to use an EU27 Module D certificate, it will expire before the Module B certificate
- The Module D certificate will have a maximum of a three-year expiration date before expiration (even if this will be only three years re-certification, an audit takes place before the end of this year)
- Likely to be much shorter (NSAI Certificates have an annual renewal date)
- When the Module D certificates expires, it will need to be transferred to a UK approved body
- **A UK approved body will be able to list EU type examination certificates for initially placing on the market (and for re-qualification)**
- This will have the effect of allowing you to use the EU27 TEC's for much longer than previously thought
- Will obviously be of benefit to those companies that have not yet transferred their EU certificates to GB ones - but frustrating to those companies that have already made that investment
- Advice that you should continue the process of transferring the EU27 Module B certificates to UK ones

New legal metrology landscape - outstanding questions

Re-qualification

- This poses some important questions
- Remember that if you undertake re-qualification this can only be approved by a UK approved body - SGS and NMI
- This means that if you use and EU27 Module D, it will only apply to first placing on the market - you will also need a UK one for any re-qualification
- This will include nearly all UKWF members

“Mix and Match”

- The easement makes sense if you are using EU27 Module B and Module D
- Some scenarios where a manufacturer may wish to use both (e.g., UK Module B and EU27 Module D or vice-versa)
- This appears to be acceptable if the Module D element is from and EU27 notified body

New legal metrology landscape - test certificates, parts certificates, and evaluation certificates



- These voluntary modular certificates are covered in WELMEC 8.8
- Also covered in the designated standard EN45501
- There is no change to the advice regarding these and they can continue to be used in new and existing type examination certificates into the future
- For the purposes of the EU27, they will begin to have 10-year expiry dates on from next year

New legal metrology landscape - Declarations of Conformity



- After the end of the year the CE mark will cease to have affect
- The Declaration of Conformity should list the relevant UK designated standards and equivalent EU harmonised standards that apply to their product, as well as details of the EU Notified Body which carried out the conformity assessment procedures
- This appears peculiar as the UK designated standards and the EU harmonised standard will have the same titles
- Remember, the NAWI Directive the Declaration of Conformity does not have to go with the instrument - just made available

New legal metrology landscape – Approved Bodies in the UK



- <https://www.gov.uk/uk-market-conformity-assessment-bodies/nmi-certin-uk-tic-ltd> - Can do Module B and Module D
- <https://www.gov.uk/uk-market-conformity-assessment-bodies/sgs-united-kingdom-limited> -Can do Module B and Module D and S11A of the Weights and Measures Act

Other Bodies that will be entering the market:

- UKMB will be an approved body for Module D for all instruments under the NAWI Regulations, the Measuring Instrument Regulations and S11A of the Weights and Measures Act 1985 - paul-moody@ukmb.org
- NSAI will be an approved body for Module D for all instruments under the NAWI Regulations, the Measuring Instruments Regulations and S11A of the Weights and Measures Act 1985- <https://www.nsai.ie/certification/>
- LNE will be an approved body for Module B and Module D for all instruments under the NAWI Regulations, the Measuring Instruments Regulations and S11A of the Weights and Measures Act 1985- <https://www.lne.fr/en/news/creation-lne-gmed-uk-subsi-dary-lne-group-increases-its-international-presence>
- FORCE will be an approved body for Module B and Module D for all instruments under the NAWI Regulations, the Measuring Instruments Regulations and S11A of the Weights and Measures Act 1985- <https://forcecertification.com/en/weighing/>

New legal metrology landscape – Spare Parts



- The Guidance notes seem to address the issues of spare parts for weighing instruments
- Non-automatic weighing instruments which are repaired, refurbished, or exchanged without changing their original performance, purpose, or type will be considered as repaired
- Spare parts are considered to have been placed on the market at the time at which the original instrument they are ultimately intended to repair, replace or maintain was placed on the market.
- This means that spare parts can comply with the same conformity assessment requirements that were in place at the time the original instrument they are ultimately intended to repair, replace or maintain was placed on the market.
- The definition of a spare part will vary depending on the commercial context, but it is broadly determined by a product's ultimate intended usage.
- This means that a wider range of modules that have their own certification can legitimately be seen as spare parts and continue to be based on EU27 certificates
- This will be most obvious with approvals for indicators, which are invariably the base for type-examination certificate, and it will be very plausible to see them as spare-parts
- If this is the situation an indicator can be used with an EU type examination for the future

New legal metrology landscape- Northern Ireland (Regulation on Market Surveillance and Compliance (2019/1020) (MSC)

- The MSC economic operator responsible for compliance must be based in the EU (or NI) in order to lawfully place certain products on the market, including non-automatic weighing instruments
- The responsible economic operator can be a manufacturer, an importer, and authorised representative or fulfilment service provider who is established in NI (or the EU)
- Established means having a physical presence in NI (or the EU) - it cannot be simply a postal address - it can be your registered office, headquarters, or permanent place of business in that country
- If you already have an economic operator in the EU – this will not be a problem
- You can place instruments with a CE mark and an EU27 type examination on the market in NI
- If you do not already have an economic operator in the EU27 – you will need to have one
- If you are supplying the goods to NI from GB you can make use of the UKNI mark if you are not using the CE mark
- Not exactly clear how the UKNI mark operates

New legal metrology landscape – How to use the UKCA marking



- The instrument must be covered by the UKCA marking frameworks by the end of this year
- Should be placed on the instrument, but can go in accompanying documents
- This means that it can be a UKCA sticker that is in the box or stuck to the instruction manual
- The easement of not being attached to the instrument lasts until December 2025

New legal metrology landscape – How to use the UKCA marking Manufacturers and Importers

- Only the manufacturer can place the UKCA mark on the instrument
- This will be done by a manufacturer that may be elsewhere in the world
- If you bring the instrument into GB, you will be the importer and the instrument must be marked with your name and address

If you apply the UKCA mark:

- You become the manufacturer and take on the full responsibility of being the manufacturer for all the relevant regulations
- The Declaration of Conformity will be in your name
- This is a significant change from the previous situation where you may be just a distributor

New legal metrology landscape – How to use the UKCA marking Dual Marking

Is it possible to dual mark instruments for both the GB and the EU(NI) market?

- This is not prohibited but may have many pitfalls
- There will need to be two complete sets of markings:
 - UKCA+M+ Approved body number
 - CE+M+ Notified Body Number
- Potentially CE+M +UK(NI) + (UK) Notified body Number
- Type examination number for GB and a type examination number for the EU27
- Two different Declarations of Conformity
- This may lead to potential confusion as to which are the applicable markings
- Would advise that it may be easier to see the different markets as different jurisdictions



Any questions?