

Meeting report: Construction Products Regulation & Brexit webinar**Date and venue:** 23 February 2021, Brussels - online conference**1. Construction products regulation in UK**

Fergus Harradence (Deputy Director Construction at the Department of Business, Energy and Industrial Strategy) presents the post-Brexit state of play of construction regulation in the UK.

He describes the changes in the system of Assessment and Verification of Constancy of Performance (AVCP). For the EU manufacturer there will be a recognition of test reports (System 3) and of assessment reports (System 1 / 1+) obtained in UK before January 2021.

Ahad Sayed (Building Safety Regulators Division of the Building Safety Programme / Ministry of Housing, Communities and Local Government) presents some information on the **new UK CA marking system**.

On 1 January 2021, UK notified bodies became UK approved bodies; current harmonised European standards for construction products became UK designated standards. At the moment they are the same standards as listed in OJEU.

The responsibilities to mark, declare performance (DoP) and put in place assessment and verification of performance remain in place; in 2021 both CE marking and CA UK marking will be accepted. However, the government plans to bring forward legislation this year that will end recognition of CE marking in Great Britain from 1st January 2022. In any case products that are already on the market with a valid CE mark can circulate until they reach their end user in the UK or EU.

One important change is that UK operators formerly defined as distributors will now be considered to be importers if they are bringing construction products into the UK from the EU, and are required to comply with additional importer requirements:

- for importers to label their products with their name and address;
- to ensure that the assessment and verification of constancy of performance (AVCP) requirements has been carried out by the manufacturer;
- that the product bears the conformity marking;
- that the manufacturer has complied with their labelling obligations.

The UKCA label must contain the following information:

- UKCA symbol
- last two digits of the year in which this specific UKCA marking was affixed
- name and address of the manufacturer (or their identifying mark)
- unique ID code of the product type
- reference number of the Declaration of Performance (DoP)
- declared performance of the product
- reference to the UK designated standard or UK Assessment Document
- identification number of the UK Approved Body
- intended use(s) of the product
- website where the DoP can be found

It must be affixed visibly, legibly and indelibly to the product. However, where this is not possible or not warranted, it can be affixed to the packaging or to the accompanying documents.

The Government is also working on a draft Building Safety Bill. This should ensure that all construction products are regulated by maintaining the current CPR approach for products with existing harmonized standards, introducing similar requirements for 'safety critical' products, and requiring other construction products to be safe. '*Safety critical products*' are defined as products where '*any failure of the product would risk causing death or serious injury to any person*'.

The new Bill will create powers to regulate products that do not have a designated standard, which haven't been regulated as a 'safety critical product' or that do not have a UK technical assessment. These products will be required to 'be safe' in a similar way to consumer products.

2. The industry view

The Industry View is presented by Andrew Taylor –Technical Officer EAPFP (European Association for Passive Fire Protection).

The positive news is that the British standardization body (BSI) was confirmed as a member of CEN until at least December 2021, and wishes to remain a full member of CEN. This means that the UK Industry will continue to use BS EN standards where they exist, and continue to develop standards together with CEN, minimizing the risk of future of divergence.

However, the industry sees future challenges in a number of areas, notably testing and assessment, conformity assessment and certification, and chemical regulations (as REACH will be replaced by mirror regulation in the UK). In some cases the UK / EU will not accept testing done in each others labs (eg for AVCP Level 3 after 2021) and this would cause double testing and additional costs for companies. The preferred solution to avoid double testing for the same product would be a mutual recognition agreement by the UK and the EU.

This was requested by the UK during negotiation but was not agreed upon between the parties. Although this would partially solve some of the issues described, it is not certain that it will ever come in place.

CPE Director, Christoph Skyes, closes the meeting. He informed that although invited to attend, the Commission refused participation to the meeting; it seems that Brexit is still a highly political issue and that they are not willing to discuss technical arrangements, such as the one on mutual recognition, with industry representatives. However, some pressure on the Commission may be put by Members of the European Parliament, for example, if adequately made aware by companies in their constituencies about the problems.

CPE plans to organise a second meeting on Brexit on the **21st of April**, to further analyse the issue and guide companies in their potential lobby action.

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