



Rialtas na hÉireann  
Government of Ireland

# **Construction Industry – Be Prepared for a ‘No Deal’ Brexit**

## **Frequently Asked Questions**

Prepared by the Department of Housing, Planning and Local Government

[housing.gov.ie](http://housing.gov.ie)



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## Introduction

The UK is due to leave the European Union on 31 October 2019. No one knows yet what shape Brexit will take or what the full impact will be on the Irish economy. We do know, however, that the Irish construction industry is import dependent, with about one-third of inputs (goods and services) imported. Approximately 40% of those goods come from the UK.

The Construction Products Regulation (EU) No 305/2011 (CPR) is European Union (EU) legislation that sets out rules for the marketing of construction products in the EU. After Brexit, manufacturers, importers, distributors and authorised representatives will need to continue to comply with the CPR when placing construction products on the Irish/EU market.

The Department of Housing, Planning and Local Government continues to raise awareness of the impacts of a 'no deal' Brexit at numerous stakeholder meetings and sectoral events. Construction sector stakeholders - including the registered users of the Building Control Management System (BCMS), encompassing all those actively involved in construction projects - have received the latest information. This has included the EU Commission's ['Notice to stakeholders'](#) and ['Questions and answers' document](#). More recently, [BCMS Alert 03/2019](#) 'Impact of a 'no deal' Brexit on construction products', was issued to approximately 110,000 registered users of the BCMS. All relevant information can be found on the Department's website at: [www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation](http://www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation)

In a 'no deal' Brexit scenario, the UK departs without a ratified agreement and orderly transition. In such circumstances, it is vital that manufacturers, distributors, importers/exporters and retailers are prepared. As Brexit approaches, more end users such as builders, certifiers, designers and specifiers will want to know that after Brexit the construction products they source are compliant with EU marketing rules.

This document contains a series of frequently asked questions aimed at explaining the impacts of a 'no deal' Brexit on the supply and use of construction products in the Irish construction sector.

## Frequently Asked Questions

1. I am a manufacturer and my products are certified by a 'notified body' registered in the UK. What will a 'no deal' Brexit mean for me?

In the event of a 'no deal' Brexit, the UK 'notified body' (a 'notified body' registered in the UK), will not be considered a notified body in the meaning of the EU law. Therefore, to continue to place construction products on the European market after a no deal Brexit, a manufacturer (AVCP 1+, 1, 2+ and 3) must either:

- arrange for a transfer of their files (note – including test reports) and the corresponding certificates from the UK 'notified body' to an EU-27 'notified body', or
- apply for a new certificate with an EU-27 'notified body'.

The manufacturer must have the (updated) certificates on or before 31 October 2019.

2. Does the requirement for transfer of certificates of conformity which were issued by UK 'notified bodies' only relate to AVCP System 1, 1+ or 2+, rather than 'Testing or Assessment Reports' (AVCP 3), as there is no ongoing service of a Notified Body required with the latter?

In the event of a 'no deal' Brexit, the UK 'notified body' will not be considered a notified body in the meaning of the EU law. Therefore, there is no room for an interpretation distinguishing between different AVCP Systems or associated certificates. The answer to FAQ #1 applies to "Testing or assessment reports" from a UK 'notified body'.

3. I am a manufacturer and source component parts for my CE Marked construction product in the UK. How does a 'no deal' Brexit affect me?

Example: A manufacturer based in the Republic of Ireland uses aggregates from Northern Ireland in a precast concrete product that requires CE Marking.

The UK will become a ‘third country’ on the date it leaves the EU. If the Republic of Ireland manufacturer imports aggregates as a component of the precast concrete product he/she is manufacturing, he/she should ensure it is a suitable product and in compliance with the relevant EN standard. The precast concrete product standard will set out the requirements and refer to the relevant EN standard for individual components. However, as he/she is not placing the aggregate on the market, there is no requirement for it to have a CE Marking.

The Republic of Ireland manufacturer when placing the precast concrete product on the Irish/ Union (EU-27) market will make a declaration of performance and affix a CE Mark in accordance with the CPR.

If the Northern Ireland manufacturer of the aggregate places the product on the Irish Market, then he/she must comply with the CPR in full and in particular by making a declaration of performance and affixing a CE Marking to the product.

#### 4. How do I know if a construction product is certified by a UK ‘notified body’?

Visit the Nando-CPR database:

<https://ec.europa.eu/growth/tools-databases/nando/>

Click “Body”.

From the CE Marking (see opposite), find the ‘Notified Body No.’

On the Nando webpage use the “Country” column to identify the country in which the ‘notified body’ is registered.

	
<b>Anyco. Ltd, PO Box 123, Leeds, UK</b>	
Product A1234 – DoP No. 5678	
<b>EN123-5: 2009</b>	
<span style="border: 1px solid green; border-radius: 50%; padding: 2px;">Notified Body No. 2511</span>	
Internal & external use in walls & partitions	
<b>Essential characteristic 1:</b>	PASS
<b>Essential characteristic 2:</b>	50 MN
<b>Essential characteristic n:</b>	NPD
www.anycoltd.co.uk/dop	

5. How do I find an EU-27 'notified body' for a construction product covered by a harmonised EN standard?

<p>Visit the Nando-CPR database: <a href="https://ec.europa.eu/growth/tools-databases/nando/">https://ec.europa.eu/growth/tools-databases/nando/</a></p> <p>Click "Construction products", then</p> <p>Click "Regulation (EU) No 305/2011 - Construction Products".</p> <p>Click "Standard" (from the bar above the "Bodies" heading).</p> <p>Click "Harmonised Standards".</p> <p>Using the product's Standard, find and click on the correct Standard, found under the "Code" column on the webpage.</p> <p>Use the "Country" column to find a 'notified body' from an EU-27 country.</p>	<table border="1"><tr><td colspan="2" style="text-align: center;"></td></tr><tr><td colspan="2" style="text-align: center;"><b>Anyc. Ltd, PO Box 123, Leeds, UK</b></td></tr><tr><td colspan="2" style="text-align: center;">Product A1234 – DoP No. 5678</td></tr><tr><td colspan="2" style="text-align: center;"><b>EN123-5: 2009</b> Notified Body No. 2511</td></tr><tr><td colspan="2" style="text-align: center;">Internal &amp; external use in walls &amp; partitions</td></tr><tr><td><b>Essential characteristic 1:</b></td><td>PASS</td></tr><tr><td><b>Essential characteristic 2:</b></td><td>50 MN</td></tr><tr><td><b>Essential characteristic n:</b></td><td>NPD</td></tr><tr><td colspan="2" style="text-align: center;"><a href="http://www.anycoltd.co.uk/dop">www.anycoltd.co.uk/dop</a></td></tr></table>			<b>Anyc. Ltd, PO Box 123, Leeds, UK</b>		Product A1234 – DoP No. 5678		<b>EN123-5: 2009</b> Notified Body No. 2511		Internal & external use in walls & partitions		<b>Essential characteristic 1:</b>	PASS	<b>Essential characteristic 2:</b>	50 MN	<b>Essential characteristic n:</b>	NPD	<a href="http://www.anycoltd.co.uk/dop">www.anycoltd.co.uk/dop</a>	
																			
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<a href="http://www.anycoltd.co.uk/dop">www.anycoltd.co.uk/dop</a>																			

6. What is the meaning of "placing on the market"?

The concept of placing on the market refers to each individual product, not to a type of products, whether it was manufactured as an individual unit or in series.

It relates to the first making available on the Union (EU-27) market, i.e. the first supply of a good for distribution, consumption or use after the manufacturing stage. Placing on the market does not require physical delivery of the product but does require that the manufacturing stage has been completed.

7. What happens when a construction product from the UK is placed on the Union (EU-27) market before/ after the date the UK leaves the EU?

The EU Commission's ['Questions and answers' document](#) outlines the consequences for products placed on the market before/ after the withdrawal date (currently 31 October 2019). Key points include:

- Goods that are placed on the Union (EU-27) market before the withdrawal date can continue to be made available in the EU-27 market or remain in use with no need for re-certification, re-labelling or product modifications.
- Placing on the market does not require physical delivery of the product but does require that the manufacturing stage has been completed. The date of placing on the market can be the date of the transaction between the manufacturer and customer after the manufacturing stage was completed.
- Proof of placing on the market can be given on the basis of any relevant document ordinarily used in business transactions (e.g. contract of sale concerning goods which have already been manufactured, invoice, documents concerning the shipping of goods to distribution or similar commercial documents).

8. I import construction products from the UK for distribution in Ireland. What new responsibilities will I have after Brexit?

After Brexit, a manufacturer, importer or distributor established in the UK will no longer be considered an economic operator established in the EU.

As a result Irish distributors of UK CE Marked construction products may find themselves becoming "importers" as defined in the CPR. An importer is the economic operator established in the EU who places a product from a third country on the EU market.

As an importer you will have the same legal responsibility as the manufacturer and will have to:

- ensure that the manufacturer has carried out the appropriate conformity assessment procedure
- have produced the required technical documentation (that is, 'declaration of performance') and
- have affixed CE Marking for all products being placed on the EU market. If there is any doubt about the conformity of the product you must not place it on the market or take corrective actions for any product that has been placed on the market.

You will also need to include your name, registered trade name or trade mark and address at which you can be contacted on the product and you will also be required to keep a copy of the EU 'declaration of performance' for 10 years after the product has been placed on the market.

As an importer, you will be required to cooperate with market surveillance authorities (Building Control Authorities) and produce any relevant records they request, including making the technical documentation available and providing all the information and documentation necessary to demonstrate the conformity of the product.

You will be required to keep records of all UK suppliers from whom you have imported products and any customers to whom you have sold these products for a period of 10 years. Table 1 below outlines the responsibilities of the various economic operators under the CPR.

<b>Requirement</b>	<b>Manufacturers (Article 11)</b>	<b>Importers (Article 13)</b>	<b>Distributors (Article 14)</b>
DoP & CE Mark for products covered by hENs since 1 <sup>st</sup> July 2013	X	Be satisfied that manufacturer has done all that is required	Be satisfied that product complies and all documents are available
Keep documentation for 10 years	X	X	
Ensure consistent production	X		
Monitor the product on the market, where appropriate	X	X	
Ensure the product is identifiable	X	X	X
Indicate a contact point for the product	Manufacturers details	Importers details	Manufacturers & Importers details
Provide instructions and safety information in the appropriate languages	X	X	X
Take corrective measures where necessary	X	X	X
Store and move products appropriately		X	X
Cooperate with requests from national authorities	X	X	X

9. What is the impact for non-harmonised construction products (that don't require CE Marking) whose performance and/ or fitness for use has been assessed by a United Kingdom Accreditation Service (UKAS) accredited test laboratory?

The primary responsibility for compliance with the requirements of the Building Regulations rests with the designers, builders and owners of buildings.

Part D of the Building Regulation sets out the legal requirements for products, materials and workmanship.

Guidance on Fitness of Materials is provided in Section 1.1 of Technical Guidance Document D (Materials and Workmanship) and states:

“...While the primary route for establishing the fitness of a material for its intended use is through the recognised standardisation procedures referred to in paragraphs (a), (b) or (c) of Requirement D3, other methods may also be considered in establishing fitness including: -

(a) Independent certification schemes by approved bodies e.g. the National Standards Authority of Ireland (NSAI). Such certification schemes may provide information on the performance of a product or certify that the material complies with the requirements of a recognised document and indicates it is suitable for its intended purpose and use. Accreditation of the body, **by a member of the European cooperation for Accreditation (EA)** such as the Irish National Accreditation Board (INAB), offers a way of ensuring that such certification can be relied on. All such certification schemes may be in addition to, but not conflict with, CE marking;

(b) Tests and calculations carried out by an accredited laboratory, showing that the material is capable of performing the function for which it is intended. Accreditation by **a member of the European cooperation for Accreditation (EA)** such as the Irish National Accreditation Board (INAB) offers a way of

ensuring that tests are conducted in accordance with recognised criteria and can be relied on;.....”

EA is the association of National Accreditation Bodies in Europe. UKAS, the National Accreditation Body (NAB) of the United Kingdom, is a member of EA and a signatory to the EA Multilateral Agreement (MLA). With the withdrawal of the UK from the European Union, UKAS will no longer meet the EA membership criteria as they are not a NAB in a Member State or candidate country.

EA has revised its Articles of Association and introduced the option of a transition period, which will allow UKAS to maintain its membership for further 2 years. During this transition period EA will analyse together with UKAS the results of the negotiation between the EU and the UK and then revise the EA membership criteria with the aim that UKAS remains an EA member. That means also that UKAS will continue to be peer evaluated by EA in order to maintain its MLA signatory status. The EA declaration on EA and the impact of Brexit can be downloaded [here](#).

Certification schemes for construction products, as referred to in Section 1.1 of Technical Guidance Document D (Materials and Workmanship), are considered reliable and a means of demonstrating compliance with Building Regulations. For so long as UKAS is a member of EA this applies to bodies accredited by UKAS operating such certification schemes.

10. Is it possible to CE Mark internal (fire or non-fire) doors given the fact that 14351-2 has not been published in the Official Journal of the EU (OJEU)? EN 14351-2<sup>1</sup> identifies material independent performance characteristics, except resistance to fire and smoke control characteristics, which are applicable to internal pedestrian doorsets. Fire resisting and/or smoke control

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<sup>1</sup>14351-2:2018 Windows and doors. Product standard, performance characteristics. Part 2: Internal pedestrian doorsets

characteristics for pedestrian doorsets and openable windows are covered by EN 16034<sup>2</sup>.

As EN 14351-2 is not currently cited in the Official Journal of the EU (OJEU) as a harmonised EN under the Construction Products Regulation, it is not yet possible to CE Mark internal pedestrian doorsets (fire and non-fire).

Until EN 14351-2 is cited in the OJEU and the transitional period has expired, internal pedestrian doorsets (fire and non-fire) may be tested to either the relevant European or British Standards.

Stay up to date with the references of harmonised standards for the Construction Products Regulation, published in the OJEU by subscribing to the RSS feed on the EU Commission's website:

[https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards/construction-products\\_en](https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards/construction-products_en)

#### 11. What is the status of references to British Standards contained within the Technical Guidance Documents (TGDs) post-Brexit?

The TGDs refer to many technical specifications, codes of practice, and other documents, including British Standards. These documents are quoted solely for the purpose of providing additional appropriate technical guidance to meet the requirements of the Building Regulations.

A reference to a technical specification is to the latest edition (including any amendments, supplements or addenda) current at the date of publication of the relevant TGD. However, if the version of the technical specification is subsequently revised or updated by the issuing body, the new version may be used as a source of guidance provided that it continues to address the relevant requirements of the Regulations.

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<sup>2</sup> EN 16034:2014 Pedestrian doorsets, industrial, commercial, garage doors and openable windows — Product standard, performance characteristics — Fire resisting and/or smoke control characteristics

These references, as quoted in the TGDs will continue to apply to Buildings or Works that are subject to the Building Regulations, irrespective of any Brexit outcome.

#### 12. What is the status of UK Agrément Certificates e.g. British Board of Agrément (BBA) Certificates for use in Ireland after Brexit?

The process of Agrément certification applies to those products and processes which do not fall within the scope of existing construction standards, either because they are innovative or because they deviate from established norms.

Irrespective of Brexit, where Third Party Certificates (UK or otherwise) are relied upon, the terms and conditions of such Agrément certificates must provide coverage for use in Ireland and must confirm compliance with the Parts A to M of the Irish Building Regulations.

#### 13. What is the status of ISPM No.15 and Wood Packaging Material (WPM) requirements in the event of a 'no deal' Brexit?

ISPM No. 15 is an international phytosanitary (plant health) measure developed by the International Plant Protection Convention (IPPC) that sets down standards for the phytosanitary treatment and marking of Wood Packaging Material (WPM). WPM is a term used to describe pallets, crates, dunnage etc. used in international trade for the transport of goods of all kinds. The aim of ISPM No.15 is to prevent the international movement and spread of disease and insects harmful to the health of plants, trees forests or ecosystems.

ISPM No. 15 does not currently apply to Ireland-UK trade. The following is a summary of the stated positions of the UK and the EU in relation to ISPM No.15 as of the withdrawal date.

In the event of a 'no deal' Brexit, the UK will leave the EU and become a third country (i.e. a non-EU Member State) on 31 October 2019.

### **ISPM No.15 and the export of goods using WPM from Ireland to the UK**

WPM, including pallets, crates and dunnage, used in the transport of goods moving from Ireland to the UK does not currently need to meet ISPM No.15 requirements. The UK Government's position is as follows: "In the event of no deal, all WPM moving between the UK and the EU must meet [ISPM15 international standards](#) by undergoing heat treatment and marking. All WPM may be subject to official checks either upon or after entry to the EU. Checks on WPM will continue to be carried out in the UK on a risk-targeted basis only. The plant health risk from WPM imported from the EU is not expected to change as a result of an EU exit."

<https://www.gov.uk/guidance/importing-and-exporting-plants-and-plant-products-if-theres-no-withdrawal-deal>

### **ISPM No.15 and the import of goods using WPM from UK to Ireland**

The EU has indicated the following regarding imports into the EU: "As of the withdrawal date, the introduction of plants, plant products and other objects from the United Kingdom into the EU-27 will be governed by this Directive (Council Directive 2000/29/EC). This is in particular relevant for the introduction into the EU of wood packaging material: such wood packaging, whether or not actually in use for the transport of objects of all kinds, has to be compliant with a treatment and mark as specified in the FAO International Standard for Phytosanitary measures No 15 ('ISPM 15')".

[https://ec.europa.eu/info/sites/info/files/file\\_import/plant\\_health\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf)

Further information on ISPM No.15 is available at:

<https://www.agriculture.gov.ie/forests-service/forest-health-and-seeds/exports-of-wood-packaging-material-ispm-no-15/>

Any queries in relation to this matter can also be sent by email to [ispm15@agriculture.gov.ie](mailto:ispm15@agriculture.gov.ie)

#### 14. What happens if a deal is agreed with the UK and the EU?"

The above questions and answers are based on a 'no deal' Brexit scenario. If the Withdrawal Agreement between the UK and EU is ratified, then a transition period will apply until 31 December 2020 during which the terms of

the future relationship will be negotiated. For the duration of the transition period, the EU will continue to treat the UK as if it were a Member State, with the exception of participation in EU institutions and governance structures. EU law, including the CPR, will continue to apply to the UK during the transition.

#### 15. Where can I get more information?

For more information, visit the Department of Housing, Planning and Local Government's webpage on Brexit and the Construction Products Regulation: [www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation](http://www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation)

If you plan on importing goods from the UK after Brexit, you, or a representative on your behalf, will need to complete customs formalities. For information on your customs responsibilities visit: [www.revenue.ie/brexit](http://www.revenue.ie/brexit)

For support and guidance on standards and certification contact the National Standards Authority of Ireland, [www.nsai.ie](http://www.nsai.ie) Email: [brexitunit@nsai.ie](mailto:brexitunit@nsai.ie)

Tel: 01 8073800

Read the Brexit Preparedness Checklist to know the essential actions firms can take before 31 October 2019 to ensure they will still be able to trade with the UK after it leaves the EU:

[www.dbei.gov.ie/en/Publications/Brexit-Preparedness-Checklist.html](http://www.dbei.gov.ie/en/Publications/Brexit-Preparedness-Checklist.html)

Learn More: [www.gov.ie/brexit](http://www.gov.ie/brexit)

[housing.gov.ie](http://housing.gov.ie)

