



PROJECTS AND CONSTRUCTION

Construction Products: How Would a 'No Deal' Brexit Affect You?

by **Seanna Mulrean**

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Since Ireland joined the EU Single Market, we have benefited from the free movement of goods and services throughout Europe, particularly with our nearest neighbour, the United Kingdom. A “no deal” Brexit could have major consequences for those who use, manufacture or distribute CE- marked construction products.

Currently, the Construction Products Regulation (**CPR**) requires certain construction products to have a 'declaration of performance' (**DOP**) and 'CE' marking. Third parties called 'notified bodies' assess products and provide 'certificates of conformity'. These 'notified bodies' must be registered in an EU country.

UK 'notified bodies' registered in Great Britain and Northern Ireland will lose their status as EU 'notified bodies.' There will be no transition period and from the date the UK leaves the EU, construction products relying on a UK 'notified body' certification may not be placed on the EU market.

All CE certificates and DOPs which are valid today will not be valid post a “no deal” Brexit. Supply chains and the availability of products may be affected as a result.

Preparing for a 'No Deal' Brexit

Developers, Builders or Construction Professionals

To limit disruption on construction sites it is advisable to check your supply chain to ensure the construction products you need will be available after the UK leaves the EU. Designers and Assigned Certifiers should request that contractors prepare a schedule of all materials requiring CE marking and DOPs which are UK CE-marked and determine whether they are also registered in an EU27 member state. If a material is registered in an EU member state, it will remain a compliant product. If not, the material cannot be used in the event of a “no-deal” Brexit and alternative arrangements should be made with a view to mitigating delay risk.

Any delays in completing a project could give rise to obligations and liabilities for parties to a construction contract. It is advisable therefore that each party review the terms of the construction related contracts to identify what their obligations are and how risk can or should be managed in the event a no-deal Brexit affects supply chain.

Manufacturers

If you manufacture products certified by a 'notified body' registered in the UK it is advisable that you consider taking one of the following actions before the UK leaves the EU:

- Arrange to transfer files and corresponding 'certificates of conformity' from the UK 'notified body' to an EU-27 'notified body'; OR
- Apply for a new 'certificate of conformity' from an EU-27 'notified body'.

Importers or distributors of construction products

Importers and distributors of UK CE-marked construction products should contact the relevant manufacturer to ensure that they have updated the product's DOP, CE-marking and will have 'valid certificates of conformity' from the date the UK leaves the EU.

An authorised representative for construction products

If the products you represent are UK CE-marked you should check with your client that they will have valid 'certificates of conformity' and DOPs from the date the UK leaves the EU.

As a manufacturer, importer, distributor or authorised representative you must comply with your CPR obligations and responsibilities when placing a construction product on the EU market.

“Placed on the market”

An important point to note (and one which is relevant in all of the above scenarios) is that if goods are ordered and manufactured before the withdrawal date, they can be considered “placed on the market”. In such circumstances all certification that was valid before withdrawal will remain valid following the date the UK leaves the EU.

[Seanna Mulrean](#) is a member of the Projects and Construction team at LK Shields and advises both Irish and international clients in the areas of law relating to all aspects and stages of project procurement, construction and delivery. Contact Seanna at smulrean@lkshields.ie if you would like more information.



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HOW WOULD A 'NO DEAL' BREXIT AFFECT YOU?

WOULD A 'NO DEAL' BREXIT AFFECT YOU?

If you use or manufacture CE-marked construction products, a 'no deal' Brexit might affect you.

CURRENTLY..

The Construction Products Regulation (CPR) requires certain construction products to have a 'declaration of performance' (DOP) and 'CE marking'. Third parties called 'notified bodies' assess products and provide 'certificates of conformity'.

CHECK THE CE MARKS



Visit the Nando CPR database to check if a product is certified by a UK 'notified body':
<https://ec.europa.eu/growth/tools-databases/nando>

POST BREXIT

All CE certificates and DOPs which are valid today will be valid post a 'no deal' Brexit. From the date the UK leaves the EU, products relying on a 'notified body' certification will not be placed on the EU market. This may affect supply chains and product availability.



HOW TO PREPARE FOR A 'NO DEAL' BREXIT

IF YOU ARE...

A MANUFACTURER OF PRODUCTS CERTIFIED BY A UK 'NOTIFIED BODY'

Arrange to transfer files and 'certificates of conformity' from the UK 'notified body' to an EU-27 'notified body' OR apply for a new 'certificate of conformity' from an EU-27 'notified body'.



A BUILDER, CONSTRUCTION PROFESSIONAL OR AN END USER

Check your supply chain to ensure the construction products you need will be available after the UK leaves the EU AND ensure that all relevant product-related documentation is compliant with the Building Regulations.

AN IMPORTER OR DISTRIBUTOR OF UK CE-MARKED PRODUCTS

Contact the manufacturer to ensure that they have updated the product's DOP, CE mark and have valid 'certificates of conformity' from the date the UK leaves the EU. Check for any additional responsibilities as an importer.

AN AUTHORISED REPRESENTATIVE FOR A UK CE-MARKED CONSTRUCTION PRODUCT

Check with your client that their products will have valid 'certificates of conformity' and DOPs from the date the UK leaves the EU.

Contact Seanna Mulrean in our Projects & Construction team for advice regarding how Brexit may impact your business.
www.lkshields.ie



About the Author



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