



Rialtas na hÉireann
Government of Ireland

Construction Industry – Preparing for the end of the Brexit Transition Period

Frequently Asked Questions

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Prepared by the Department of Housing, Local Government and Heritage

housing.gov.ie

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Introduction

The United Kingdom (UK) left the European Union (EU) on 1 February 2020 after both sides had concluded a Withdrawal Agreement which facilitates an orderly departure. The Withdrawal Agreement also includes the Protocol on Ireland and Northern Ireland which protects the peace process and avoids a hard border on the island of Ireland, while preserving the integrity of the EU Customs Union and Single Market and Ireland's place therein. Regardless of the outcome of the future relationship negotiations, the provisions of the Withdrawal Agreement and the Protocol will apply.

On 9 September 2020, the Government published an updated [Brexit Readiness Action Plan](#). This Action Plan supports and promotes the necessary preparations for the end of the transition period in less than three months' time on 31 December 2020.

Regardless of the outcome of the EU-UK negotiations, a number of outcomes are already clear. The most significant of which is that, in less than three months, the UK will be outside the EU's Single Market and Customs Union.

This means that any business that moves goods from, to or through Great Britain will be subject to a range of customs formalities, and other regulatory requirements that do not apply to such trade today.

The Protocol on Ireland and Northern Ireland will apply from 1 January 2021, ensuring that many of the changes arising in our trade with Great Britain will not apply to trade with Northern Ireland. Under the Protocol, Northern Ireland will remain aligned to a limited set of EU rules, notably related to goods, and the Union Customs Code. This means that there will be no new checks or controls on goods moving between Ireland and Northern Ireland, and that the Construction Products Regulation (EU) No 305/2011 (commonly known as the CPR), will continue to apply to and in respect of Northern Ireland.

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. This means that the construction sector will need to place significant emphasis on readiness preparations ahead of the end of the transition period.

The CPR is EU legislation that sets out rules for the marketing of construction products covered by harmonised technical specifications in the EU. From the end of the transition period, 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 requirements for placing construction products sourced from the UK onto the EU market will change when the UK becomes a non–EU third country.

The Department of Housing, Local Government and Heritage continues to raise awareness of the implications of the end of the transition period 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 Department's communication '[Brexit – Construction Products Regulation](#)', which was issued to approximately 120,000 registered users. All relevant information can be found on the Department's website at: www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation.

From the end of the transition period, end users such as builders, certifiers, designers and specifiers will expect to be assured by economic operators, that the construction products they source and use are compliant with EU marketing rules.

This document contains a series of frequently asked questions aimed at explaining the impacts of the end of the transition period 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 (England, Scotland, Wales and Northern Ireland). What will the end of the Brexit transition period mean for me?

At the end of the Brexit transition period, a 'notified body' registered in the UK (England, Scotland, Wales and Northern Ireland), 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 the end of the Brexit transition period, a manufacturer (Assessment and Verification of Constancy of Performance (AVCP) System 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' (a 'notified body' registered in the UK), 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 December 2020.

2. Does the requirement for transfer of certificates of conformity which were issued by UK 'notified bodies' only relate to Assessment and Verification of Constancy of Performance (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?

At the end of the Brexit transition period, 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 with a European Technical Assessment (ETA) issued by a 'Technical Assessment Body' (TAB), registered in the UK (England, Scotland, Wales and Northern Ireland). What will the end of the Brexit transition period mean for me?

At the end of the Brexit transition period, a 'Technical Assessment Body' registered in the UK (England, Scotland, Wales and Northern Ireland), will not be considered a 'Technical Assessment Body' in the meaning of the EU law.

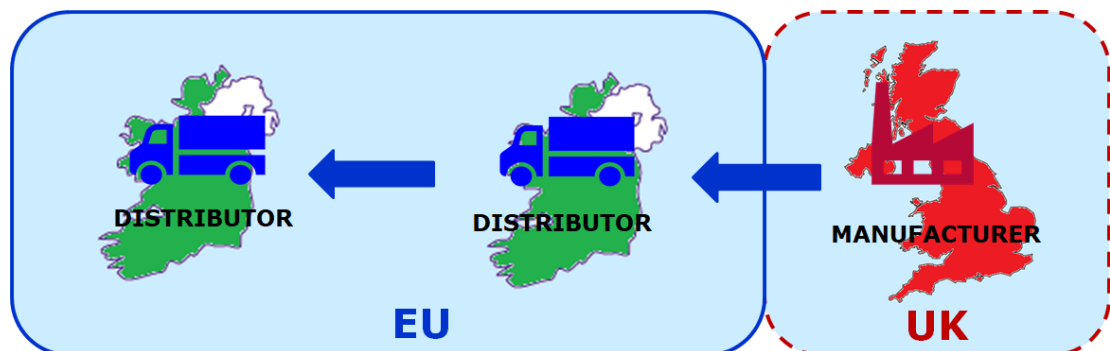
In order to continue to lawfully place construction products with a valid ETA on the European market after the end of the Brexit transition period, the holder must either:

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

The manufacturer must have the (updated) certificates on or before 31 December 2020.

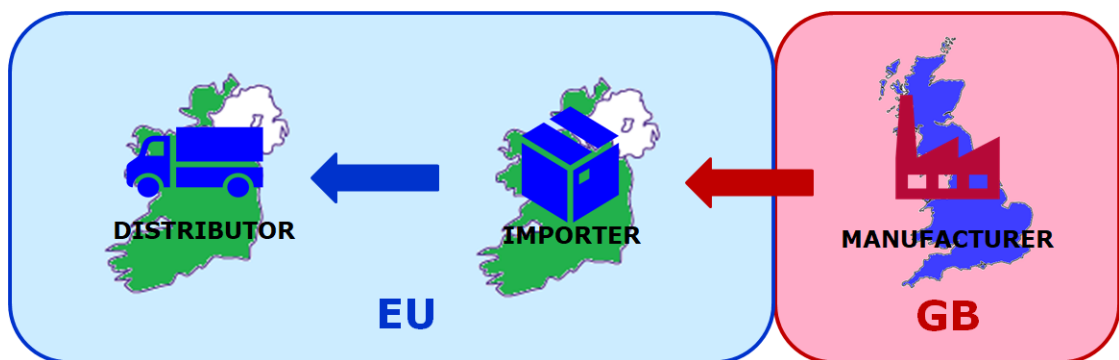
4. I source CE Marked construction products in Great Britain (England, Scotland and Wales), to distribute and sell in Ireland. What new responsibilities will I have after the end of the Brexit transition period?

If you are an economic operator that currently sources products from the UK to distribute or sell in the Republic of Ireland, you are a distributor.



At the end of the Brexit transition period, a manufacturer, importer or distributor established in Great Britain (England, Scotland and Wales), will no longer be considered an economic operator established in the EU.

As a result Irish distributors of CE Marked construction products from Great Britain (England, Scotland and Wales), will become an importer 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, you must take corrective actions for any product that has been placed on the market.
- 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 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.

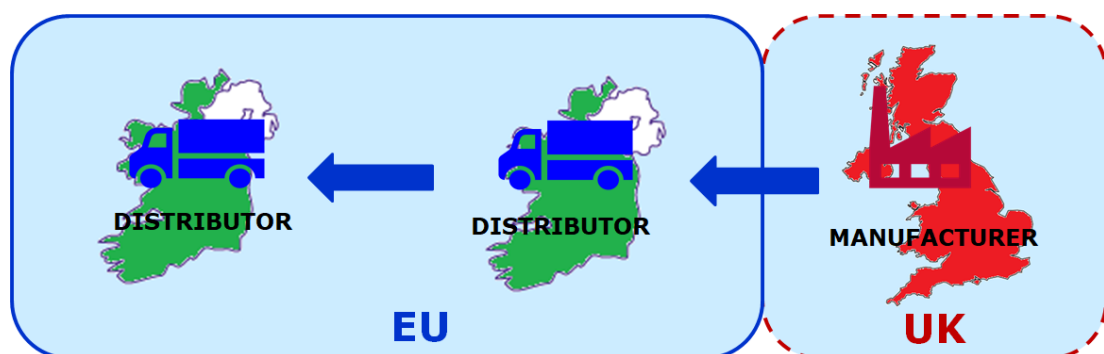
You will be required to keep records of all Great Britain (England, Scotland and Wales), suppliers from whom you have imported products, and any customers to whom you have sold these products, for a period of 10 years.

Table 1 below outlines the responsibilities of the various economic operators under the CPR.

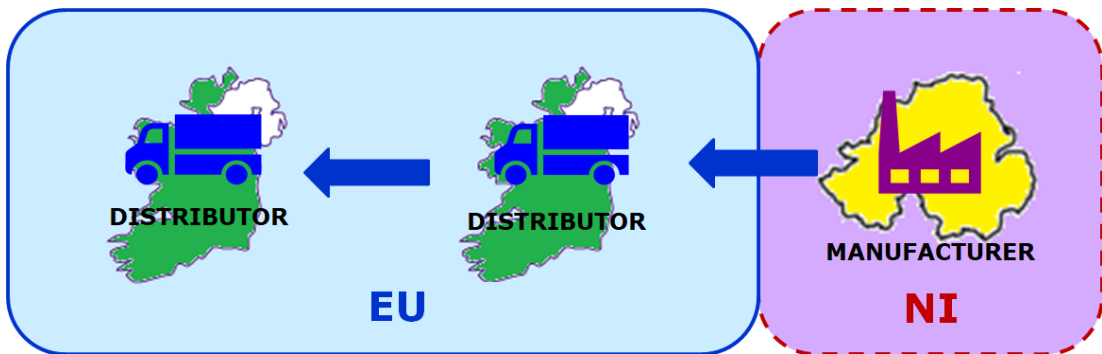
Obligations and Responsibilities	Manufacturers (Article 11)	Importers (Article 13)	Distributors (Article 14)
DoP & CE Mark for products covered by hENs since 1 st July 2013	YES	Be satisfied that manufacturer has done all that is required –	Be satisfied that product complies and all documents are available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

5. I source CE Marked construction product in Northern Ireland to distribute and sell in Ireland. How does the end of the Brexit transition period affect me?




If you are an economic operator that currently sources products from the UK to distribute or sell in the Republic of Ireland, you are a distributor.



In accordance with the Ireland/ Northern Ireland protocol such products are not considered imported products for the purpose of labelling and identification of economic operators. Therefore you will continue to be a distributor. Refer to Part C of EU Commission's latest '[Notice to Stakeholders \(March 2020\)](#)' for the applicable rules in Northern Ireland after the end of the transition period.



6. How do I know if a construction product is certified by a UK 'notified body'?

<p>Visit the Nando-CPR database: https://ec.europa.eu/growth/tools-databases/nando/</p> <p>Click "Body".</p> <p>From the CE Marking (see opposite), find the 'Notified Body No.'</p> <p>On the Nando webpage use the "Country" column to identify the country in which the 'notified body' is registered.</p>	<table border="1"> <tr> <td colspan="2" style="text-align: center;">  19 </td> </tr> <tr> <td colspan="2" style="text-align: center;">Anyco. Ltd, PO Box 123, Leeds, UK</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;"> EN123-5: 2009 Notified Body No. 2511 </td> </tr> <tr> <td colspan="2" style="text-align: center;">Internal & external use in walls & partitions</td> </tr> <tr> <td>Essential characteristic 1:</td> <td>PASS</td> </tr> <tr> <td>Essential characteristic 2:</td> <td>50 MN</td> </tr> <tr> <td>Essential characteristic n:</td> <td>NPD</td> </tr> <tr> <td colspan="2" style="text-align: center;">www.anycoltd.co.uk/dop</td> </tr> </table>	 19		Anyco. Ltd, PO Box 123, Leeds, UK		Product A1234 – DoP No. 5678		EN123-5: 2009 Notified Body No. 2511		Internal & external use in walls & partitions		Essential characteristic 1:	PASS	Essential characteristic 2:	50 MN	Essential characteristic n:	NPD	www.anycoltd.co.uk/dop	
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7. How do I find an EU-27 'notified body' for a construction product covered by a harmonised EN standard?

Visit the Nando-CPR database:

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

Click "Construction products", then


Click "Regulation (EU) No 305/2011 - Construction Products".

Click "Standards" (from the bar above the "Bodies" heading).

Click "Harmonised Standards".

Using the product's Standard, find and click on the correct Standard, found under the "Code" column on the webpage.

Use the "Country" column to find a 'notified body' from an EU-27 country.


Anyc. Ltd, PO Box 123, Leeds, UK
Product A1234 – DoP No. 5678
EN123-5: 2009 Notified Body No. 2511
Internal & external use in walls & partitions
Essential characteristic 1: PASS
Essential characteristic 2: 50 MN
Essential characteristic n: NPD
www.anycoltd.co.uk/dop

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

"Placing on the market" means the first supply of a good for distribution, consumption or use on the market in the course of a commercial activity, whether in return or payment or free of charge.

The concept of placing on the market refers to each individual product (that is, every window or every package / truckload of bricks), not to a type of product, whether it was manufactured as an individual unit or in series.

Placing on the market does not require physical delivery of the product but does require that the manufacturing stage has been completed. The following situations are not considered as placing on the market:

- Pre-ordered goods, not yet manufactured;
- Contract for the supply of fungible goods (e.g. x units of product y, not individually identifiable);
- Goods manufactured and held in the manufacturer's stock, but not yet supplied for distribution, consumption or use.

Refer to Part B of EU Commission's latest ['Notice to Stakeholders \(March 2020\)'](#) for the applicable rules for industrial products placed on the EU or the UK market before the end of the transition period.

9. What happens when a construction product from Great Britain (England, Scotland and Wales) is placed on the Union (EU-27) market before/ after the date the UK leaves the EU?

Refer to Part B of EU Commission's latest ['Notice to Stakeholders \(March 2020\)'](#) for the applicable rules for industrial products placed on the EU or the UK market before the end of the transition period.

The economic operator bears the burden of proof of demonstrating on the basis of any relevant document that the good was placed on the market in the EU or the United Kingdom before the end of the transition period.

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).

10. [What association will European Accreditation \(EA\) have with the United Kingdom Accreditation Service \(UKAS\) at the end of the Brexit transition period?](#)

European Accreditation (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 expressed the importance of having UKAS as member, even after the withdrawal of the UK from the EU. Accordingly, 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.

On 14 May 2020 the EA General Assembly approved the following resolution:

- The General Assembly acknowledges that UK left the EU and notes accordingly that the National Accreditation Body of UK (UKAS) does not meet anymore the requirements as set out in [Article 5 paragraph 1 of the Articles of Association](#).
- The General Assembly, acting upon the recommendation from the Executive Committee, applies Article 6 paragraph 7 of the Articles of Associations and endorses that the National Accreditation Body of UK (UKAS) shall remain an EA Full Member until 31 January 2022. The membership criteria in EA-1/17-S1 continue to apply. This resolution can be changed by the General Assembly, if needed.

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.

For more information about EA and the EA MLA please visit the EA website at <https://european-accreditation.org/>.

The EA declaration on EA and the impact of Brexit can be downloaded [here](#).

UKAS's membership of the International Accreditation Forum (IAF) and the International Laboratory Accreditation Cooperation (ILAC) will be unaffected at the end of the Brexit transition period.

11. [What is the impact at the end of the Brexit transition period, 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;.....”*

UKAS shall remain an EA Full Member until 31 January 2022. The EA declaration on EA and the impact of Brexit can be downloaded [here](#).

UKAS's membership of the International Accreditation Forum (IAF) and the International Laboratory Accreditation Cooperation (ILAC) will be unaffected at the end of the Brexit transition period.

12. [What is the impact at the end of the Brexit transition period on construction build-ups/systems not covered by the CPR, which tested \(e.g. Fire Resistance Tests\) by laboratory accredited by the United Kingdom Accreditation Service \(UKAS\)?](#)

The conditions of use of particular materials and in some cases the methods of achieving proper standards of workmanship are contained in technical specifications referred to in Requirement D3 of Part D of the Building Regulations.

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 of the Building Regulations, other methods may also be considered in establishing fitness including 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.

If a test has been carried out by a laboratory accredited by UKAS, on a construction build-up/system, before the end of the transition period, then certification for that construction build-up/system or non-harmonised product may continue to be relied upon after the end of the Brexit transition period, provided that:

- a) The construction build-up/ system used is not modified, or does not differ from what was tested, subject to the appropriate field of application (if any), or
- b) National requirements in respect of the standard forming the basis of the test (e.g. I.S. EN 1365 for Fire Resistance tests of Loadbearing elements) have not changed.

13. [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 14351-2¹ 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

¹14351-2:2018 Windows and doors. Product standard, performance characteristics. Part 2: Internal pedestrian doorsets

characteristics for pedestrian doorsets and openable windows are covered by EN 16034².

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](#).

14. What is the status of references to British Standards contained within the Technical Guidance Documents (TGDs) at the end of the Brexit transition period?

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.

² 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 the outcome of the EU-UK negotiations.

15. [What is the status of UK Agrément Certificates e.g. British Board of Agrément \(BBA\) Certificates for use in Ireland at the end of the Brexit transition period?](#)

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.

Regardless of the outcome of the EU-UK negotiations, 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**.

16. [What is the status of ISPM No.15 and Wood Packaging Material \(WPM\) requirements at the end of the Brexit transition period?](#)

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.

Currently, ISPM 15 is a requirement for WPM entering the EU from third countries. It does not currently apply EU-UK trade. However, at the end of the transition period, the EU rules in the field of plant health no longer apply to the United Kingdom as the UK will then be a Third Country and ISPM 15 will be a requirement.

At the end of the end of the transition period, the EU rules in the field of plant health will no longer apply to the United Kingdom. The following is a summary of the positions of the EU and the UK in relation to ISPM15.

EU Position

The following is the stated EU position regarding the import of WPM into the EU. “*Wood packaging material, whether or not actually in use in the transport of objects of all kinds, may only be introduced into the Union if it is compliant with a treatment and mark as specified in the FAO International Standard for Phytosanitary Measures No 15 ('ISPM 15')*”.

For more information refer to <https://www.agriculture.gov.ie/brexit/> and https://ec.europa.eu/food/plant/plant_health_biosecurity_en.

UK Position

All WPM moving between the UK and the EU must continue to 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 from 1 January 2021. For more information refer to:

<https://www.gov.uk/guidance/importing-and-exporting-plants-and-plant-products-from-1-january-2021>.

Keeping up to date

In the context of preparedness and in order to monitor developments on the UK Government’s position and the EU Commission’s position, it is recommended that you refer to the above links in order to remain fully informed of the official positions. You are strongly urged to keep this evolving situation under review. Any queries in relation to this matter can also sent by email to ISPM15@agriculture.gov.ie.

17. Where can I get more information?

On 9 September 2020, the Government published an updated [Brexit Readiness Action Plan](#). This Action Plan supports and promotes the necessary preparations for the end of the transition period on 31 December 2020.

Regardless of the outcome of the EU-UK negotiations, a number of outcomes are already clear, the most significant of which is that, the UK will be outside the EU's Single Market and Customs Union.

This means that any business that moves goods from, to or through Great Britain will be subject to a range of customs formalities, SPS checks and other regulatory requirements that do not apply to such trade today.

For further information, please visit www.gov.ie/brexit to read the plan and to get more information.

For more information, on the impacts of the end of the Brexit transition period on the construction sector, visit the Department of Housing, Local Government and Heritage's webpage on Brexit and the Construction Products Regulation: www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation

If you plan on trading goods from the UK after the end of the Brexit transition period, you, or a representative on your behalf, will need to complete customs formalities. For information on your customs responsibilities visit: www.revenue.ie/brexit.

For support and guidance on standards and certification contact the National Standards Authority of Ireland, www.nsai.ie

Email: brexitunit@nsai.ie Tel: 01 8073800

housing.gov.ie

