

Health & Safety Legislation Update

17th January 2020

Jonathan Teale



Agenda

- New health and safety legislation: NONE!
- Changes to health & safety guidance
- Update on key changes to health & safety legislation over the past 12 months – all Brexit related

Changes to guidance



New guidance

Some new/ revised guidance

- Exposure to mild steel welding fume – revised Guidance: regardless of duration, suitable controls are now required
- New guidance INDG 479 on fit testing for respiratory protective equipment (RPE)



New guidance

Some new/ revised guidance

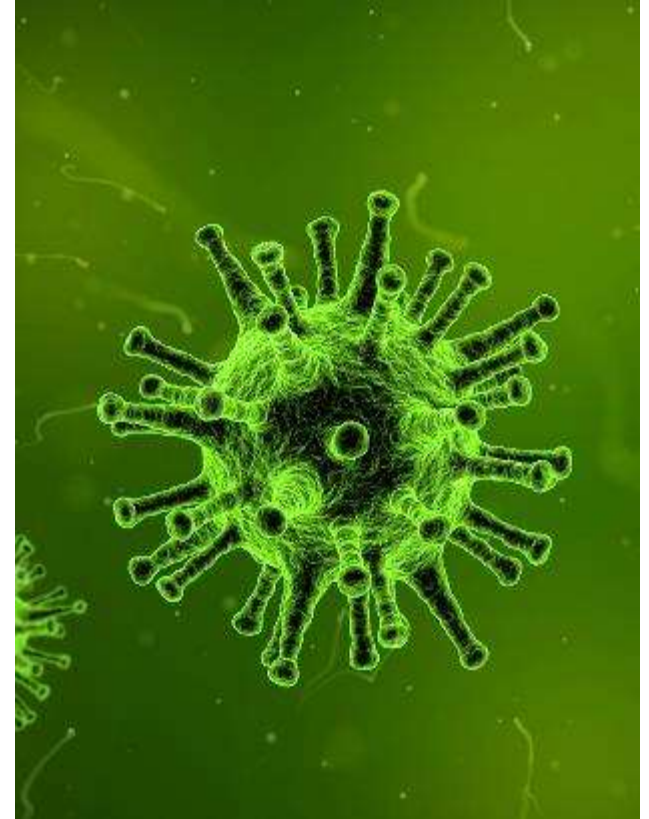
- Hand-arm vibration: L140 Second Edition, plus exposure calculator published
- INDG 480 Hand-arm vibration in amenity horticulture and how to control the risk



New guidance

Some new/ revised guidance

- Manual Handling Assessment Charts (MAC Tool) – new score sheet issued March 2019
- Management and operation of microbiological containment laboratories - Advisory Committee on Dangerous Pathogens – reissued March 2019



Amendments to Legislation

The background of the slide features a blue field with twelve yellow stars arranged in a circle, characteristic of the European Union flag. A hand is shown tearing a hole in the center of this field, revealing the Union Jack (the flag of the United Kingdom) underneath. The text 'Amendments to Legislation' is overlaid on the left side of the image.

Brexit related amendments to legislation

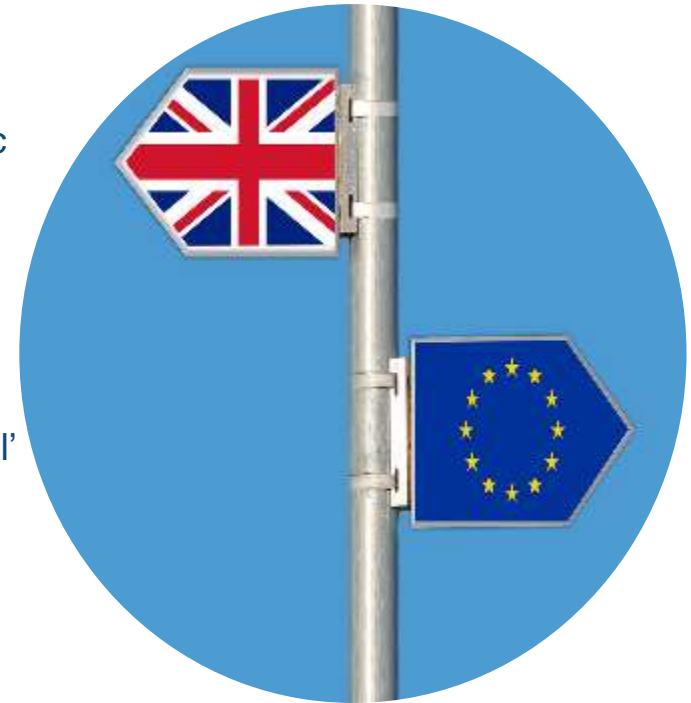
Multiple administrative changes to existing legislation.

Objective of the changes is to ensure consistency/ avoid dramatic changes in law.

The changes do not come into effect until 'Exit Day' i.e. the day the UK leaves the EU (currently 31st January 2020).

Legislative changes assume the UK leaves the EU 'without a deal' (i.e. without a transition agreement).

If the UK leaves the EU with a transition deal, then the changes will be postponed for the duration of the transition and will come into effect on "Implementation Period Completion Day".



Brexit related amendments: overview

Categories of legislation

- **Most UK Acts of Parliament and regulations:** no change in duties, multiple minor changes in references/ terminology and scope
- **UK Regulations relating to CE marking:** UK equivalent ('UK' marking) introduced in parallel to CE marking
- **EU Regulations (e.g. REACH):** duplicated onto UK statute book, often with multiple changes in terminology, and amendments in relation to enforcement. Referred to as “retained” EU legislation
- **EU Directives:** not technically binding, but much UK legislation makes reference to Directives, therefore copied onto UK statute book (“retained”), and amended where appropriate

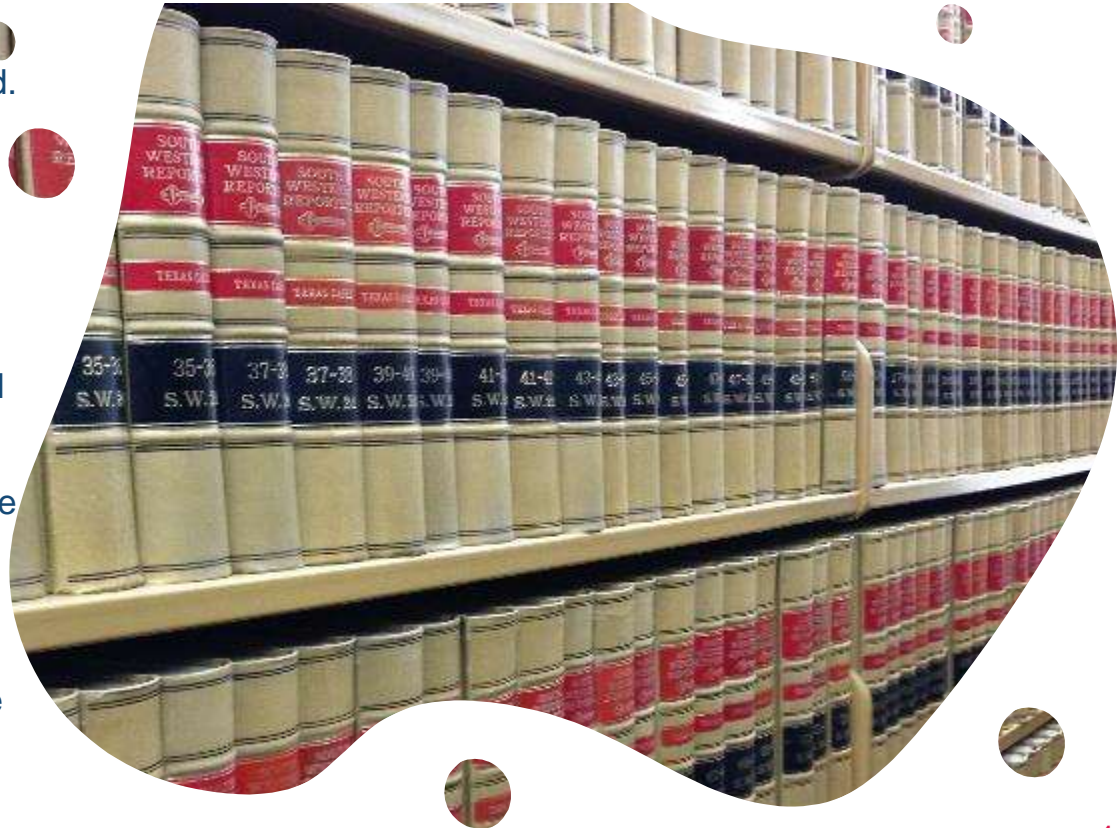
UK legislation: general changes in terminology/ references

Multiple UK legislation has been amended.

Amendments do not generally affect the duties under the regulations.

Examples of changes include

- Some powers exercised by the European Commission are transferred to the Secretary of State
- Scope of regulations is restricted to the UK (i.e. where they previously applied to trade anywhere within the EU)
- Where regulations contained references to EU Directives, these are sometimes amended to references to UK legislation



UK legislation: Brexit changes relating to CE marking

Conformity assessment and CE marking: current rules ensure that certain goods sold within the EU conform to minimum safety standards.

Implementation: CE marking requirements currently implemented in the UK mostly by UK Regulations (e.g. the Electrical Equipment (Safety) Regulations 2016), and sometimes by EU Regulations (e.g. Regulation 2016/425 on PPE).

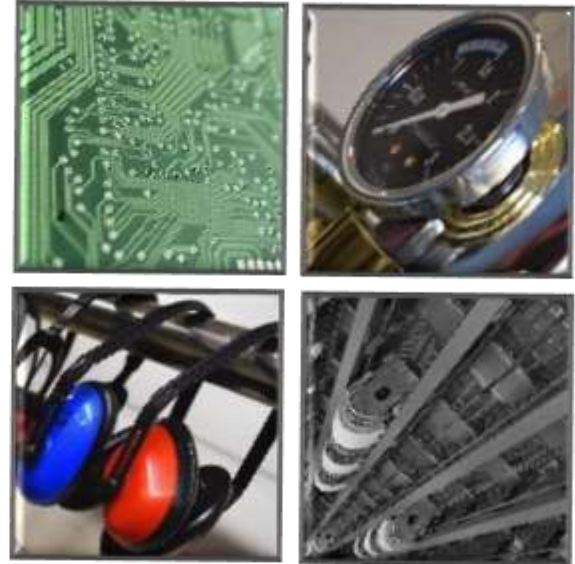
Brexit changes: UK will no longer be a part of the formal CE marking system. To minimise disruption to manufacture or importation of goods, a number of regulations are amended to introduce a UK equivalent scheme ('UK marking'). Standards will be the same, but UK marking restricted to the UK.



Regulations relating to CE marking

The regulations affected include the following:

- The Electrical Equipment (Safety) Regulations 2016
- The Electromagnetic Compatibility Regulations 2016
- The Simple Pressure Vessels (Safety) Regulations 2016
- The Pressure Equipment (Safety) Regulations 2016
- The Lifts Regulations 2016
- The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 2016 + Northern Ireland equivalent
- The Noise Emission in the Environment by Equipment for Use Outdoors Regulations 2001



Regulations relating to CE marking

Continued...

- The General Product Safety Regulations 2005
- The Supply of Machinery (Safety) Regulations 2008
- The Aerosol Dispensers Regulations 2009
- The Explosives Regulations 2014
- Regulation (EU) 2016/425 on personal protective equipment
- The Personal Protective Equipment (Enforcement) Regulations 2018 (SI 2018/390)
- Regulation (EU) 2016/426 on appliances burning gaseous fuels
- The Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018

CE marking: key changes

- 'CE' marking is replaced by 'UK' marking
- 'EU Declaration of Conformity' becomes 'Declaration of Conformity'
- 'EU type examination' becomes 'type examination'
- Harmonised Standards are replaced by Designated Standards; (designated by the Secretary of State, and likely to mirror Harmonised Standards')
- Regulations are amended to add rules concerning how the Secretary of State designates Standards.

The image shows the letters 'UK' and 'CA' in a very large, bold, black, sans-serif font. The letters are stacked vertically, with 'UK' on top and 'CA' below it. The 'U' and 'C' are on the left, and the 'K' and 'A' are on the right. The font is thick and blocky, with a slight shadow or depth to the letters.

CE marking: key changes

Notified Bodies: conformity assessment can be completed by 'Notified Bodies', which are assessment bodies notified to the European Commission by Member States and then recognised across the EU.

Brexit change:

- UK based Notified Bodies will no longer be recognised in the EU as Notified Bodies
- **UK 'Approved Bodies':** the amended UK Regulations introduce an equivalent UK scheme whereby conformity assessment may be completed by an Approved Body
- EU Notified Bodies will automatically become Approved Bodies under the UK regime

CE marking: manufacturing and importing

UK continued recognition of CE marked goods: CE marked goods will continue to be recognised in the UK (for the time being).

Therefore in the short term, UK manufacturers and importers will be able to choose whether to place either CE marked or UK marked goods on the market.



CE marking: exporting

Exporting CE marked goods: CE marked goods already placed on the market before exit day will continue to be recognised in the EU.

New goods not yet on the market, manufactured and CE marked in the UK:

- will be recognised where the manufacturer has carried out conformity assessment and self declared
- will not be recognised if conformity assessment is completed by a UK based Notified Body. The manufacturer has several options (depending on the type of goods)
 - Get the goods re-assessed by an EU based Notified Body
 - Transfer the Technical Files to an EU based Notified Body
 - Find out if the UK based Notified Body which carried out the assessment has taken action to continue to be recognised in the EU



EU Regulations: Brexit implications

There are multiple EU Regulations which are directly enforceable in the UK. Key examples include (but not restricted to)

- Regulation EC 1907/2006 (REACH)
- Regulation EC 1272/2008 (CLP)
- Regulation EU 528/2012 (biocidal products)
- Regulation (EU) 2016/425 (personal protective equipment)
- Regulation (EU) 2016/426 (appliances burning gaseous fuels)
- Regulation (EU) No 305/2011 (construction products)



EU Regulations: Brexit implications

The European Union (Withdrawal) Act 2018 provides that all directly enforceable EU Regulations are copied into UK law on exit day and therefore become UK legislation.

EU Regulations will therefore have **two** copies in LUS – the existing **EU version**, and the new **UK 'retained' version**.

The UK retained versions are subject to multiple amendments, including

- changing EU references to UK references
- limiting the scope to the UK
- providing for enforcement by UK regulators

LUS will therefore retain the EU version of the Regulation, and in addition create mirror entries for EU Regulations, to cover the UK version of the EU Regulation.



REACH: Brexit implications

UK version of REACH copied onto UK statute book.

Scope will be limited to the UK.

HSE will perform the same function as the European Chemicals Agency.

The Secretary of State will perform the functions of the European Commission.



REACH: Brexit implications

New chemicals: will need to be registered with the HSE.

Existing registrations in the EU: where UK organisations had already registered chemicals with the ECHA, those registrations will no longer be recognised by the ECHA.

Existing registrations – UK: existing registrations with ECHA will automatically be copied direct into the UK system. Therefore, manufacturers will not need to re-register chemicals with the HSE but they will be required to file certain information with the HSE within 60 days, and other information within 2 years.



REACH: Brexit implications

UK importers:

- currently no requirement to register chemicals imported from another European supplier
- Post Brexit, importer will be required to register > 1 tonne of any chemicals imported into the UK
- **Exception:** if imported from an EU based supplier/ distributor/ manufacturer who has registered that chemical with ECHA, the UK importer will not be required to register the chemical with HSE within the first two years after 'exit day' but must supply certain information to HSE within 180 days

REACH: Brexit implications

Substances of very high concern: HSE will recreate the **Candidate List**, **Authorisation List** and **Restriction List** (initially mirroring the EU lists).

Authorisations: UK based authorised users/ downstream users:

- No longer recognised in the EU
- Authorisation copied into the UK system, but the user/ downstream user must file specified information with HSE within 60 days
- Outstanding applications for authorisation to ECHA – transferred to HSE and decided within 6 months

Restrictions: no change, but the exception for certain asbestos products is removed (because all asbestos products are already prohibited in the UK).

CLP: Brexit implications

UK version of CLP copied onto UK statute book.

Scope will be limited to the UK.

HSE will perform the same function as the European Chemicals Agency.

The Secretary of State will perform the functions of the European Commission.

Multiple changes in references/terminology.

 Highly flammable	 Explosive	 Oxidizing	 Corrosive	 Highly corrosive	 Health hazard	 Highly toxic
 General hazard	 Irritant	 Toxic	 Corrosive	 Highly corrosive	 Hazardous to the environment	 Hazardous to the aquatic environment
 Explosive	 Explosive	 Explosive	 Explosive	 Explosive	 Explosive	 Explosive
 Explosive	 Explosive	 Explosive	 Explosive	 Explosive	 Explosive	 Explosive
 Explosive	 Explosive	 Explosive	 Explosive	 Explosive	 Explosive	 Explosive

CLP: Brexit implications

Basic requirements unchanged, but

- UK companies importing from the EU become importers, therefore taking on importer duties
- EU '**Classification and Labelling inventory**' (managed by ECHA) is duplicated in the UK, and renamed as the '**UK Notification Database**'
- HSE will develop UK mandatory **classification and labelling list**, listing new substances to be considered for addition to the UK Notification Database
- Provision inserted for HSE/ manufacturer/ importer/ downstream user to submit an application for revised classification and labelling requirements for a specific substance

Biocidal Products Regulation: Brexit implications

UK version of Biocidal Products Regulation copied onto UK statute book.

Scope will be limited to the UK.

Multiple changes in references/ terminology.

Powers of European Commission transferred to Secretary of State.

Powers/ functions of ECHA and National Competent Authorities transferred to HSE or HSE NI.

HSE will publish **'UK List'** and the **'UK Simplified Active Substances List'** i.e. active substances approved in the UK.

Substances on the EU list (**'article 95 List'**) will be copied across to the UK List, but will be removed if the person who submitted the dossier is not established in the UK within 2 years of exit day.



Biocidal Products Regulation: Brexit implications

Applications for product authorisation will go to the HSE/ HSE NI. (EU Provisions for mutual recognition, Union authorisation etc are all removed).

Various transitional provisions relating to outstanding applications to the ECHA.

Products authorised by the HSE under the EU scheme are automatically transferred to the UK scheme, but authorisation holder may be requested to file certain information with the HSE.

Products authorised in another EU state – will be recognised in UK provided that the authorisation holder is registered in the UK within 12 months and provides information to HSE within 60 days of request.

Labelling must comply with COSHH.

Other EU Regulations

- Regulation (EU) 2016/425 (personal protective equipment) + the Personal Protective Equipment (Enforcement) Regulations 2018
- Regulation (EU) 2016/426 (appliances burning gaseous fuels) + the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018
- Regulation (EU) No 305/2011 (construction products)

The above all concern CE marking – therefore see previous slides concerning CE marking.

Thank you

- Any questions or further LUS training or demonstrations – please call 01254 669002 or email info@thecompliancepeople.co.uk to use our free helpline service.
- For more information on our consultancy services, [please click here](#)

