



The implications of Brexit for
machine builders in the UK,
the EU and the rest of the world.



INTRODUCTION

Following long-running negotiations and a deadline that was repeatedly postponed, the United Kingdom (UK) and European Union (EU) finally agreed a new trading relationship on 24 December 2020.

For the previous few years, it had been 'business as usual' for machine builders – yet they had been forced to speculate about what would happen if the UK left the EU with or without a trade deal. And if there was a deal, what would it look like?

With the deal signed, we now know what the trading landscape looks like: tariff-free, quota-free trade with, according to Prime Minister Boris Johnson, no non-tariff barriers. As many exporters and importers have quickly realised, new rules relating to customs and tax are causing difficulties. Furthermore, machine builders in the UK also have to make some changes just to continue serving customers in the home market. And although Northern Ireland is remaining in the UK, the situation for Northern Ireland is different from that for the rest of the UK.

This white paper looks at the implications of Brexit for machine builders in the UK, the European Union and the rest of the world. We will consider each scenario in turn, then present some Resources that will help machine builders comply with the new regulatory requirements.



SCOPE

Relevant regulations in the UK (The Supply of Machinery (Safety) Regulations) and the EU (Machinery Directive 2006/42/EC) cover complete machines, partly completed machinery and safety components. The scope of this present white paper is the same.

As stated in the introduction, the new UK-EU trading relationship involves changes to customs and tax rules. This white paper focuses only on regulatory requirements, not customs and tax.



Machine builders in Great Britain serving the home market

In this section we will discuss machine builders serving their home market in England, Scotland and Wales, collectively referred to as Great Britain (GB). Later we will address the Northern Ireland market, which is covered by the Northern Ireland Protocol.

GB machine builders should already be familiar with the CE marking process. CE marking continues for exports to the EU 27 countries and later in this article we will discuss the small yet vital actions that need to be taken. Now the UK has left the EU, CE marking has been replaced by UKCA (UK Conformity Assessed) marking. The process is all but identical so long as the UK's Supply of Machinery (Safety) Regulations remain aligned with the European Machinery Directive. Nevertheless, there are some changes to documentation and machine marking that need to be implemented for GB machine builders supplying the home market.

The most obvious change is that machines need to display a UKCA mark instead of a CE mark. Both the HSE (Health and Safety Executive) and BEIS (Department for Business, Energy and Industrial Strategy) advised in 2020 that, for the time being, CE labelling will continue to be accepted for products that were assessed and CE marked prior to 31 December 2020. The UKCA mark can be applied to accompanying documentation only until 1 January 2023 if preferred but, after that date, the UKCA mark must be displayed on both the documentation and the product itself.

From 1 January 2021, documentation needs to show the machine as being UKCA marked instead

of CE marked. In addition, if a Declaration of Conformity (DoC) or Declaration of Incorporation (DoI) previously referred to **harmonised standards** with EN prefixes, these now need to refer to **designated standards** with BS prefixes to indicate they are British Standards.

When preparing a DoC or DoI, there is no legal requirement to name a person in Great Britain as being authorised to compile the technical file, though in all likelihood that person will be if a GB manufacturer is supplying a machine to the home market. Similarly, the requirement for the technical file to be in English will not be of concern to GB machine builders.

For Annex IV machinery, whereas CE marking requires a **Notified Body** to undertake the conformity assessment, the relevant bodies in the UK are termed UK Market Conformity Assessment Bodies (UKMCABs). Most UK Notified Bodies have been converted automatically to **Approved Bodies** but machine builders should check this with their Notified/Approved Body and make sure the documentation is updated accordingly.



Exporting from Great Britain to Northern Ireland

Despite Northern Ireland remaining part of the UK, machines manufactured in GB for sale in Northern Ireland must be CE marked (see the section on exporting to Europe).

This apparent anomaly is because of the Northern Ireland Protocol, which has been in place since 1 January 2021 to enable free trade across the Irish border. Most rules in Northern Ireland relating to manufactured products are remaining aligned with EU regulations rather than GB regulations. For the avoidance of doubt, note that UKCA marking is not accepted in Northern Ireland.

GB machine builders will need to name someone established in the EU as being responsible for compiling the technical file. If the importer or distributor in Northern Ireland is unwilling to take on this role, Hold Tech Files Ltd offers a service whereby it can be named on the DoC or DoI as being responsible. See the 'Resources' section for more information about this service.

If Annex IV machines are conformity assessed by a UK Approved Body, then the machine must display both the CE and UKNI mark (not the UNKI mark on its own). UK Approved Bodies can continue to act as Notified Bodies for products being CE/UKNI marked for Northern Ireland.

Exporting from Great Britain to the EU

The UK-EU trade deal covers the EU 27 member states and effectively includes Iceland, Liechtenstein and Norway (members of the European Free Trade Association, EFTA), plus Switzerland, which has a Mutual Recognition Agreement (MRA) with the EU.

In addition, Turkey, Andorra and San Marino have Customs Union Agreements with the EU. Northern Ireland can also be treated the same because of the Northern Ireland Protocol.

CE marking of machines destined for these markets continues almost exactly as before. The vital difference is that it is no longer acceptable to name a person in the UK as being authorised to compile the technical file, since the UK is no longer in the EU. The person named on the DoC or DoI must be established in the EEA

(European Economic Area) and can be a person or a business.

GB machine builders may have a subsidiary, distributor or representative willing to undertake this role but, if these options are not available, then a simple, quick and cost-effective option is the service provided by Hold Tech Files Ltd, based in the Republic of Ireland. See the 'Resources' section for more information about this service.

Where Annex IV machinery has previously been conformity assessed by a Notified Body based in the UK, the EU is no longer recognising these EC type-examination certificates. In most cases UK Notified Bodies have already transferred accreditations to other EU-based Notified Bodies. Machine builders should satisfy themselves that this has been done or, if not, obtain certification from an EU Notified Body as a matter of urgency.

The points outlined above are very important for UK machine builders exporting to the EU. Because there are no 'CE police', some machine builders have previously taken the view that a minor non-compliance with the CE marking process would be unlikely to cause a problem. Now, however, incorrect documentation could easily result in machines, partly-completed machines and safety components being held up at customs and failing to reach EU customers on time.

Exporting from Northern Ireland to the EU

Not only does the Northern Ireland Protocol provide for free trade between Northern Ireland and the Republic of Ireland, it also allows for free trade between Northern Ireland and the other EU 27 nations. Machine builders in Northern Ireland can continue to CE mark machines and export them to the EU exactly as they did before the UK left the EU.

Exporting from GB and Northern Ireland to the rest of the world

Since the UK left the EU, the UK Government has been seeking and signing new trade deals with other nations and trading blocks around the world. However, it is still necessary to ensure machines meet the local technical requirements, wherever they are sold.



Exporting from the EU to GB

The procedure for UKCA marking machines for the GB market is substantially the same as that for CE marking. The key differences are that the UKCA mark must be displayed on the machine and documentation instead of the CE mark, and the DoC or DoI should refer to **Designated Standards** prefixed BS, rather than **Harmonised Standards** prefixed with either EN or another national identifier. The regulations concerning machinery placed on the market in GB do not require a named person in GB to be authorised to compile the technical file; that person may be in the EU or anywhere else.

For Annex IV machinery, however, certificates issued by UK bodies before the end of the transition period continue to be valid for the purposes of placing products on the GB market with UKCA marking. It is recognised that some approved bodies and/or their clients may prefer updated certificates for the avoidance of any doubt, but they are not required to do so.

The above does not apply if the certificate has ceased to be the responsibility of the UK-based body, for example because it has been transferred to a non-UK body such as a Notified Body based in the EU. A certificate transferred in such a way may be valid for placing CE marked goods on the GB market for the duration of the current transitional period during which CE marking is recognised in GB, but it will not be valid beyond this.

Exporting from the EU to Northern Ireland

The Northern Ireland Protocol has been in place since 1 January 2021. Under this protocol, regulations for manufactured goods in Northern Ireland are largely remaining aligned with EU regulations. One result of this is that EU machine builders can continue to CE mark machines and export them to Northern Ireland as before.

Exporting from the rest of the world to GB

If machine builders from the rest of the world exported machines to GB prior to the UK leaving the EU, then they should be familiar with the CE marking process. The situation now is that machines need to be UKCA marked instead. See the section on 'Exporting from the EU to GB' for the changes that need to be made.

For Annex IV machinery, if certification was previously undertaken by a Notified Body in the UK, then this certification should have been transferred when the Notified Body converted to an Approved Body. Machine builders should check this with their Notified/Approved Body.

Exporting from the rest of the world to Northern Ireland

Because of the Northern Ireland Protocol, regulations for manufactured goods in Northern Ireland are largely remaining aligned with EU regulations. If machine builders from the rest of the world had exported machines to Northern Ireland prior to the UK leaving the EU, then they should be familiar with the CE marking process and can continue as before.

However, one point to note is that while the UK was part of the EU, machine builders in the rest of the world may have named a person in GB as being responsible for compiling the technical file. If so, the documentation will need to be amended to name someone who is established in the EU. See the 'Resources' section for information about how Hold Tech Files Ltd can be authorised to compile the technical file.



Other considerations

Rules of origin

Aside from the regulatory aspects of CE marking, UK-based machine builders exporting to the EU now need to consider the complex rules of origin. This issue relates to customs declarations and is outside the scope of this present white paper. Nevertheless, it would be remiss not to draw the attention of machine builders to this point.

Regulation 2019/1020

European Regulation 2019/1020 on market surveillance and compliance of products comes into force on 16 July 2021. This aims to strengthen the requirements for market surveillance by Member States but there are important implications for machine builders. The new regulation introduces requirements relating to an 'economic operator' and machines cannot be placed on the market unless there is an economic operator established in the EU. Hold Tech Files Ltd offers a service by which machine builders in GB or the rest of the world can appoint it as an Authorised Representative and meet the new obligation. See the 'Resources' section for more information.



About the author

Derek Coulson is a machinery safety specialist with over 25 years' experience. He is the founder of Safe Machine Ltd, a consultancy based in the UK, and a director of Hold Tech Files Ltd in the Republic of Ireland.



European Regulation 2019/1020 white paper

This publication explains the new requirement for an Authorised Representative, outlines the options for machine builders and the service offered by Hold Tech Files Ltd.

Download the white paper from: www.holdtechfiles.eu/links-and-resources

UKCA logo

Image files for the UKCA logo can be downloaded from <https://www.gov.uk/guidance/using-the-ukca-marking>

Official guidance on UKCA marking

UK Government guidance on UKCA marking is online at <https://www.gov.uk/guidance/using-the-ukca-marking>

Hold Tech Files Ltd

Hold Tech Files Ltd is established in the Republic of Ireland and can therefore be named on the DoC or DoI as the person responsible for compiling the technical file. To this end, Hold Tech Files has created a web-based service for manufacturers of machines, partly completed machines and safety components covered by the European Machinery Directive. After signing a mandate and paying a fee, the customer can upload relevant files to a secure server. Payment of a one-off fee entitles the manufacturer to name Hold Tech Files on the DoC or DoI for a period of ten years.

In addition, Hold Tech Files can be named as the Authorised Representative for compliance with European Regulation 2019/1020 when it comes into force on 16 July 2021. This second service will be of interest to machine builders based outside the EU who do not have a subsidiary, distributor or agent willing to take on the responsibilities associated with this role. Contact Hold Tech Files for more information about this service.

Hold Tech Files Ltd, Dun Iseal House, Newtown, Gaulsmills, Ferrybank, Waterford Ireland, X91 F638. www.holdtechfiles.eu | derek@holdtechfiles.eu

Safe Machine Ltd

Safe Machine Ltd was founded by Derek Coulson in 2012 to offer a range of machinery safety services. These include CE marking, CE audits, UKCA marking, UKCA audits, PUWER inspections and training. Derek Coulson is a machinery safety specialist with over 25 years' experience.

Safe Machine Ltd, Belasis Business Centre, Coxwold Way, Billingham, Tees Valley, TS23 4EA, UK. www.safemachine.co.uk | derek@safemachine.co.uk

COMPLIANCE Risk Software

Developed by DD IT Solutions Ltd specifically for machinery safety applications, COMPLIANCE Risk Software uses detailed checklists to simplify the risk assessment process. This software tool can be used by any competent machine designer, control system designer, safety professional, consultant or end user. It saves time during machine design and development, when preparing the technical file for CE marking and UKCA marking, and during CE/UKCA audits, PUWER Assessments and EN ISO 13849 Control Integrity Assessments. Visit the website to download a free trial of the software.

DD IT Solutions Ltd, NETPark, Thomas Wright Way, Sedgefield, Co Durham, TS21 3FD, UK. www.compliancerisksoftware.co.uk | info@ddits.co.uk

The information contained in this white paper is intended as a guide only and is believed to be correct at the time of going to press. However, it remains the reader's responsibility to comply with all applicable regulations.

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Hold Tech Files Ltd
Dun Iseal House, Newtown
Gaulsmills, Ferrybank
Waterford
Ireland
X91 F638

www.holdtechfiles.eu
derek@holdtechfiles.eu



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