



# 2018-12-11 Brexit Update from Kiwa - Testing, Certification and Notified Bodies

11 December 2018

Brexit continues to dominate the news and is providing a great deal of uncertainty. During this period Kiwa will regularly update its clients on the status and implications of Brexit on a practical level. It should be noted that there is a great deal of uncertainty at present - a deal was signed Withdrawal aka Transition Deal was agreed by the UK and EU - but in the face of a perceived inevitable defeat in parliament if it was put to the vote - the vote of the 11th has been delayed.

It is almost impossible to predict all eventualities at present in face of the growing confusion and increasing timeline pressure but for practical purposes we can simplistically summarise possible outcomes as:

1. The withdrawal agreement - or some similar version - is voted on in the UK Parliament and accepted and there will be an orderly exit in March 2019.
2. The Brexit date is pushed back to allow more time for negotiation of the withdrawal agreement and business will continue as is.
3. There will be a No Deal Exit which poses the most questions.

Other possibilities and permutations - a completely new deal, a new referendum etc - could come to pass, but many of them will have the same implications as one of the above.

Kiwa are here to support all manufacturers to navigate through the many scenarios they are facing in terms of having their products ready for market. We will have subject matter experts available to support customers in both planning for the possible outcomes as well as moving swiftly once the final outcome is known.

In the meantime in this briefing we will try to outline the likely key outcomes and implications under these scenarios without referring to the political ramifications!

1. Withdrawal Agreement successful.

In brief, during to the Transition period, which could be extended beyond the currently defined period, CE Marking will continue to be applicable in the UK. UK and EU Notified Bodies can continue to perform their services and duties as today and to all intents and purposes it will be business as usual - same standards, same Regulations, same product requirements, CE Marking etc. Beyond the transition period it by definition becomes less clear. The Government has written that it wishes to align Product Regulations and Standards with EU requirements and talks of a "single test" - and in the short term it is likely they will be identical but as the fundamental tenet of Brexit is to allow the UK to make its own decisions a divergence from EU product standards and requirements cannot be ruled out in the medium term.

2. Brexit date delayed - or Brexit cancelled

It has been widely reported that the EU has suggested that the Brexit date could be pushed back although at present this appears to have been rejected by the UK Government. The Court of Justice of the European Union opinion that the UK could unilaterally revoke its intention to withdraw from the Union has also opened another possibility and should this come to pass this will also be business as usual scenario.



### 3. No Deal

The Government has made several statements of how it envisages approvals, testing and certification will work in the "unlikely" event of no deal being agreed. In brief if no Withdrawal deal is reached then until the 29th March CE marking will continue as is but thereafter:

- CE Marked goods already placed on the market can continue to circulate
- For a *limited time* manufacturers will be able to place CE marked products on the UK market although as yet there is no statement of the length of this time-limited period - note in the absence of a withdrawal Deal upholding mutual recognition agreements there will be no UK situated Notified Bodies. Kiwa UK however has aligned processes with other Notified Bodies within the Kiwa Group and can continue to offer a full CE service to its customers.
- The UK will create "Approved Bodies" (the new UK "notified bodies") and a new UK Conformity mark that the Approved Bodies will test and Certify products for compliance. It is our understanding that these Approved Bodies will continue to be UKAS accredited and it is likely that current UK Notified Bodies will quickly convert to becoming Approved Bodies.
- As mentioned the stated intention is to remain aligned with EU:
  - UK Essential requirements will be identical to EU Essential Requirements
  - hENs will be "designated standards"
- UKAS accreditation of laboratories and certification bodies will continue to be required in the UK.
- The British Standards Institution has secured continued membership of CEN and CENELEC for a period post-Brexit (up to the end of 2020) and agreed to committing to align their statutes to allow continued participation of BSI thereafter. This is important to maintain close alignment of standards between the UK and EU.

So in the event of No Deal, it is probable that Manufacturers wanting to put products on the EU market will require an EU Notified Body involvement where one is called for by the legislation - eg for the Gas Appliance Regulation - but not for one where a Notified Body involvement is not mandatory eg EMC-D. For a period the UK will continue to accept CE marked products but thereafter a UK Conformity Mark will be required and this will require a UK Approved Body involvement - again where the legislation so requires.

We will be expanding upon these themes in a FAQs page on our Brexit Advice [webpages](#) and LinkedIn pages and for further information please contact [uk.brexititcsupport@kiwa.com](mailto:uk.brexititcsupport@kiwa.com) and we will answer your questions.