



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMEs

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25 September 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF PYROTECHNIC ARTICLES

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020. Until that date, EU law in its entirety applies to and in the United Kingdom.³

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market,⁴ in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable after the end of the transition period (Part A below). This notice also explains certain relevant separation provisions of the Withdrawal Agreement (Part B below), as well as the rules applicable to Northern Ireland after the end of the transition period (Part C below).

Advice to stakeholders:

To address the consequences set out in this notice, stakeholders are in particular advised to:

¹ A third country is a country not member of the EU.

² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

³ Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

⁴ In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

- ensure certification by an EU notified body;
- adapt product labelling, where necessary.

Please note:

This notice does not address:

- EU rules on explosives for civil uses;
- EU rules on explosives precursors;
- EU chemicals law.

For these aspects, other notices are in preparation or have been published.⁵

A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD

After the end of the transition period, Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles⁶ no longer applies to the United Kingdom.⁷ This has in particular the following consequences:

1. OBLIGATIONS OF IMPORTERS; CONFORMITY ASSESSMENT PROCEDURES AND NOTIFIED BODIES

The “*Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of industrial products*” of 13 March 2020⁸ is also relevant for the EU rules on pyrotechnic articles. This holds in particular for the identification of economic operators (an economic operator established in the EU who, before the end of the transition period, was considered as an EU distributor will become an importer for the purpose of Directive 2013/29/EU with respect to products coming from the United Kingdom), and for the requirement to hold a certificate issued by an EU notified body after the end of the transition period.

2. LABELLING OF PYROTECHNIC ARTICLES

According to Article 1 of Commission Implementing Directive 2014/58/EU setting up a system for the traceability of pyrotechnic articles⁹, pyrotechnic products have

⁵ https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en

⁶ OJ L 178, 28.6.2013, p. 27.

⁷ Regarding the applicability of Directive 2013/29/EU to Northern Ireland, see Part C of this notice.

⁸ https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_industrial_products.pdf.

⁹ OJ L 115, 17.4.2014, p. 28.

to be labelled with a registration number comprising, *inter alia*, the identification number of the notified body, as well as the processing number used by the notified body for the pyrotechnic article. The registration number is assigned by the notified body.¹⁰

After the end of the transition period, pyrotechnic articles placed on the EU market can no longer be labelled with a registration number assigned by a conformity assessment body established in the United Kingdom.

B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT

Article 41(1) of the Withdrawal Agreement provides that an existing and individually identifiable good lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may be further made available on the market of the EU or of the United Kingdom and circulate between these two markets until it reaches its end-user.

The economic operator relying on that provision 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.¹¹

For the purposes of that provision, “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 for payment or free of charge.¹² “Supply of a good for distribution, consumption or use” means that “an existing and individually identifiable good, after the stage of manufacturing has taken place, is the subject matter of a written or verbal agreement between two or more legal or natural persons for the transfer of ownership, any other property right, or possession concerning the good in question, or is the subject matter of an offer to a legal or natural person or persons to conclude such an agreement.”¹³

Example: An individual pyrotechnic article sold by the UK-based manufacturer to a UK-based wholesaler before the end of the transition period based on a certificate issued by a notified body in the United Kingdom can still be distributed further into the EU on the basis of that certificate.

C. APPLICABLE RULES IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD

After the end of the transition period, the Protocol on Ireland/Northern Ireland (“IE/Ni Protocol”) applies.¹⁴ The IE/Ni Protocol is subject to periodic consent of the Northern

¹⁰ See recital 2 of Commission Implementing Directive 2014/58/EU.

¹¹ Article 42 of the Withdrawal Agreement.

¹² Article 40(a) and (b) of the Withdrawal Agreement.

¹³ Article 40(c) of the Withdrawal Agreement.

¹⁴ Article 185 of the Withdrawal Agreement.

Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.¹⁵

The IE/NI Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/NI Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.¹⁶

The IE/NI Protocol provides that Directive 2013/29/EU applies to and in the United Kingdom in respect of Northern Ireland.¹⁷

This means that references to the EU in Parts A and B of this notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.

More specifically, this means *inter alia* the following:

- A pyrotechnic article placed on the market in Northern Ireland has to comply with Directive 2013/29/EU.
- A pyrotechnic article manufactured in Northern Ireland and shipped to the EU is not an imported product.
- A pyrotechnic article shipped from Great Britain to Northern Ireland is an imported product.
- Where provisions of Union law require a unique code indicating a Member State, it shall be indicated as “UK(NI)”.¹⁸
- Certificates of conformity issued by a Notified Body in the EU are valid in Northern Ireland.
- Certificates of conformity issued by a conformity assessment body in Great Britain are not valid in Northern Ireland.

However, the IE/NI Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to

- participate in the decision-making and decision-shaping of the Union;¹⁹

¹⁵ Article 18 of the IE/NI Protocol.

¹⁶ Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/NI Protocol.

¹⁷ Article 5(4) of the IE/NI Protocol and section 19 of annex 2 to that Protocol.

¹⁸ Article 7(2) of the IE/NI Protocol. Technical constraints, usually linked to databases, may require the country code to be limited to two digits. In this case, a non-attributed combination of digits should be used.

¹⁹ Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/NI Protocol.

- initiate objections, safeguard or arbitration procedures to the extent that they concern regulations, standards, assessments, registrations, certificates, approvals and authorisations issued or carried out by EU Member States;²⁰
- invoke the country of origin principle or mutual recognition for products placed legally on the market in Northern Ireland, or for certificates issued or other activities performed by authorities or bodies established in the United Kingdom.²¹

More specifically, this last point means *inter alia* the following:

- Certificates of conformity issued by Notified Bodies in Northern Ireland are valid only in Northern Ireland. These certificates and reports are not valid in the EU.²² Where a pyrotechnic article is certified by a Notified Body in Northern Ireland, the indication “UK(NI)” must be affixed next to the “CE” marking.²³ This distinct marking allows the identification of the pyrotechnic article which can be legally placed on the market in Northern Ireland, but not in the EU.

The website of the Commission on the EU legislation on pyrotechnic articles (https://ec.europa.eu/growth/sectors/chemicals/legislation_en#pyrotechnics) provide for general information concerning pyrotechnic articles. These pages will be updated with further information, where necessary.

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²⁰ Fifth subparagraph of Article 7(3) of the IE/Ni Protocol.

²¹ First subparagraph of Article 7(3) of the IE/Ni Protocol.

²² Fourth subparagraph of Article 7(3) of the IE/Ni Protocol.

²³ Fourth subparagraph of Article 7(3) of the IE/Ni Protocol.