



PRODUCT LIABILITY BULLETIN

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What does a "no deal" Brexit mean for any future UK product safety regime?

On 25 March 2019, the UK Government published [guidance](#) on proposed changes to the UK product safety regime that will come into force if the UK leaves the EU without a deal to govern its withdrawal from the EU.

The proposed changes – in the form of the draft [Product Safety and Metrology etc. \(Amendment etc.\) \(EU exit\) Regulations 2019](#) – will amend a raft of sectoral UK product safety legislation, including laws governing products such as toys, electrical products, radio equipment, pressure vessels, gas appliances, lifts and machinery in the event of a “no deal”.

Although the draft regulations are not intended to introduce a new UK product safety regime and the changes they will make are limited, there are a number of key steps that the government recommends that UK businesses generally should consider taking in the event of a “no deal”. In particular:

- Given that instead of the current familiar CE marking there will be a new UK conformity marking for products placed on the UK market, UK businesses should check if they need to amend the label on existing products and check that they know how to get UK approvals for new products to be placed on the UK market.
- UK distributors that bring products into the UK from the EU or European Economic Area will be considered "importers" under the Consumer Protection Act 1987, with the additional duties this brings for ensuring the products are safe. As a result, UK distributors will be potentially liable for personal injury or property damage arising from any defective products they supply to consumers. Until now, UK distributors will not

QUESTIONS FORWARD TO COLLEAGUE

Shook Hardy & Bacon International lawyers think globally in everything we do. We have been entrusted by many of the world's leading companies to help them preserve their ability to manufacture, market and sell products in key markets worldwide in the face of increasing regulation, legislation and litigation threats.

From risk mitigation, regulatory and intellectual property strategies to creative dispute resolution tactics, Shook lawyers offer comprehensive, cost-effective solutions at all stages of your product's life cycle.



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have been potentially liable on this basis.

- UK businesses that bring products into the UK from the EU/EEA should also check that they are labelled correctly, as they will be considered "producers" under the General Product Safety Regulations 2005. As a result, they will have to comply with a more onerous set of requirements to check product compliance, maintain documentation and ensure that additional labelling appears on documents accompanying such products.

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For further details on the impact of a “no deal” Brexit on any future UK product safety regime, please see the “Key Facts” section of the UK Government’s new published guidance and/or contact a member of the Product Liability Litigation practice group in Shook’s London office.

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