

IN THE EVENT OF A 'NO-DEAL' BREXIT

FAQs on Impacts of Type Approval on Motor Vehicles

RSA

How will a no-deal Brexit affect holders of EU and EC type approvals issued by the UK vehicle certification agency (VCA) i.e. type approvals for vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles? When the UK leave the EU single market, the UK VCA will no longer be an EU type approval authority. From the Brexit date UK type approvals (e11) issued by them will become invalid (in the absence of the provisions listed below).

What options are available to holders of EU and EC type approvals? Under a special arrangement in EU Regulation 2019/26, transposed into Irish law by [S.I. No. 53 of 2019](#), holders of such approvals can, up until the Brexit date apply to transfer their UK VCA-issued type approvals to an EU27 type approval authority.

An application must be made to an EU type approval authority in any of the EU 27 member states. The EU type approval regulations set out the application process. As these transfers will include a handover of the usual powers and obligations from the UK VCA to the chosen EU type approval authority, it will be at their discretion whether to grant the approvals.

Supporting test reports from the original UK type approval may be re-used in the transfer application, however it will be at the discretion of the EU type approval authority to require some tests to be repeated if warranted.

What about vehicles in stock in Ireland post BREXIT?

- Vehicles that have certificate of conformity (CoC) based on a VCA-issued type approval (e11), and a transfer of type approval authority was not made before the date that Brexit occurred, EU law does not allow for the placing on the market or registration of vehicle stock after this date. Therefore, that vehicle stock cannot be registered in Ireland.
- *For current production lines*, if an application has been made to transfer type approval to an EU27 type approval authority and the vehicles have been placed on the market by the manufacturer - both before the Brexit date, those vehicles can be registered and entered into service after the Brexit date..
- *Vehicle stock with e11 approvals that no longer form part of a current production line*, and that have been placed on the market prior to the Brexit date and that are intended to be registered in the state after Brexit. Taking into account all of the provisions of EU Regulation 2019/26, registration of these vehicles will be possible after the date of Brexit, subject to meeting the following criteria:
 - that they meet the required technical standards
 - assurance has been provided from an EU27 type approval authority that they have committed to fully assume the UK type approval authority's aftermarket roles and responsibilities with respect to these vehicles.

A definition for '*placing on the market*' is provided at the end of this note.

Will it be possible to apply for end of series (EOS) derogation for vehicles whose CoC's became invalid?

Derogations are only available under the circumstances described in EU type approval law i.e. the introduction of new technical standards. It does not permit the granting of derogations for CoC's that have become invalid due to Brexit.

After a 'no deal Brexit' how would the supply and use of vehicle systems, components and separate technical units be effected?

The supply of UK type approved products in the Irish market will be limited to those products where manufacturers availed of the transfer option described above under EU Regulation 2019/26 and which were placed on the market before the Brexit date. This may change if a bilateral agreement was reached between the EU and UK.

How may a ‘no deal Brexit’ affect multi-stage builds and incomplete vehicles?

Multi stage vehicles built in several stages may include two or more stages of bodybuilding before becoming a completed vehicle. The Irish bodybuilding industry would typically use the national small series type approval (NSSTA) path in order to obtain approval for the completed vehicles.

Incomplete vehicles produced on the basis of a UK VCA-issued (e11) type approval: Under EU law these CoC's for incomplete vehicles will actually become invalid after the UK exit the single market. Therefore, obtaining a NSSTA through NSAI for the completed vehicles after the Brexit date is not likely to be possible under the EU law unless type-approval for the incomplete stage has transferred to an EU27 type approval authority before the Brexit date and the incomplete vehicle product has been placed on the market before this date (or a transfer application has been made to an EU27 type approval authority before the Brexit date and the incomplete vehicle product has been placed on the market before this date).

Will there be mutual recognition of NSSTAs and IVAs between Ireland and the UK for manufacturers of small series vehicles?

Under EU law mutual recognition of national approval schemes is only permissible between EU member states.

However, Article 36 of the EU type approval Directive (2007/46/EC) allows for the possibility of a bilateral agreement between the EU and the UK as a ‘third country’ in the future and could apply to vehicles or components or both.

Acceptance of individual vehicle approvals (IVAs)

- Up to the Brexit date, IVAs from UK could be recognised by NSAI under the mutual recognition agreement subject to all tests being completed before that date.
- After the Brexit date, IVAs from UK could not be recognised as the mutual recognition would cease to have effect. An IVA would need to be applied for from NSAI.

‘Placing on the market’

The following is an extract from the European commission’s document entitled ‘Questions and Answers relating to the United Kingdom’s withdrawal from the European Union with regard to type-approval of vehicles, systems, components and separate technical units’

‘...The concept of “placing on the market” applies consistently to Union product legislation to determine the legal requirements applicable to a specific product: a product must comply with the applicable Union legislation at the time of its placing on the market⁵....

...‘Placing on the market’ means the first supply of a product for distribution, consumption or use in the Union (EU-27) market in the course of a commercial activity, whether in return for payment or free of charge⁶. Placing on the market requires an offer or agreement between two or more legal or natural persons for the transfer of ownership, possession or any other property right concerning a specific product after the stage of manufacture has taken place. The concept of placing on the market refers to each individual product, not to a type of product. Moreover, placing on the market does not require physical delivery of the product but does require that the manufacturing stage has been completed⁷.

These principles apply to the automotive sector as harmonised at EU-level as no deviating provisions are laid down in the harmonised legislation of the sector....’

⁵See Commission Notice 2016/C 272/01 “The Blue Guide on the implementation of EU product rules 2016”, OJ C 272, 26.7.2016, p. 1.

⁶See Article 2(2) of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, OJ L 218, 13.8.2008, p. 30. The market surveillance provisions included in this Regulation are applicable in the context of Directive 2007/46/EC on the approval of motor vehicles. See also Regulations (EU) No 167/2013, (EU) No 168/2013 and (EU) 2016/1628.

⁷For more information on the concept of placing on the market, see Chapter 2 of “The Blue Guide on the implementation of EU product rules 2016”, cited above.