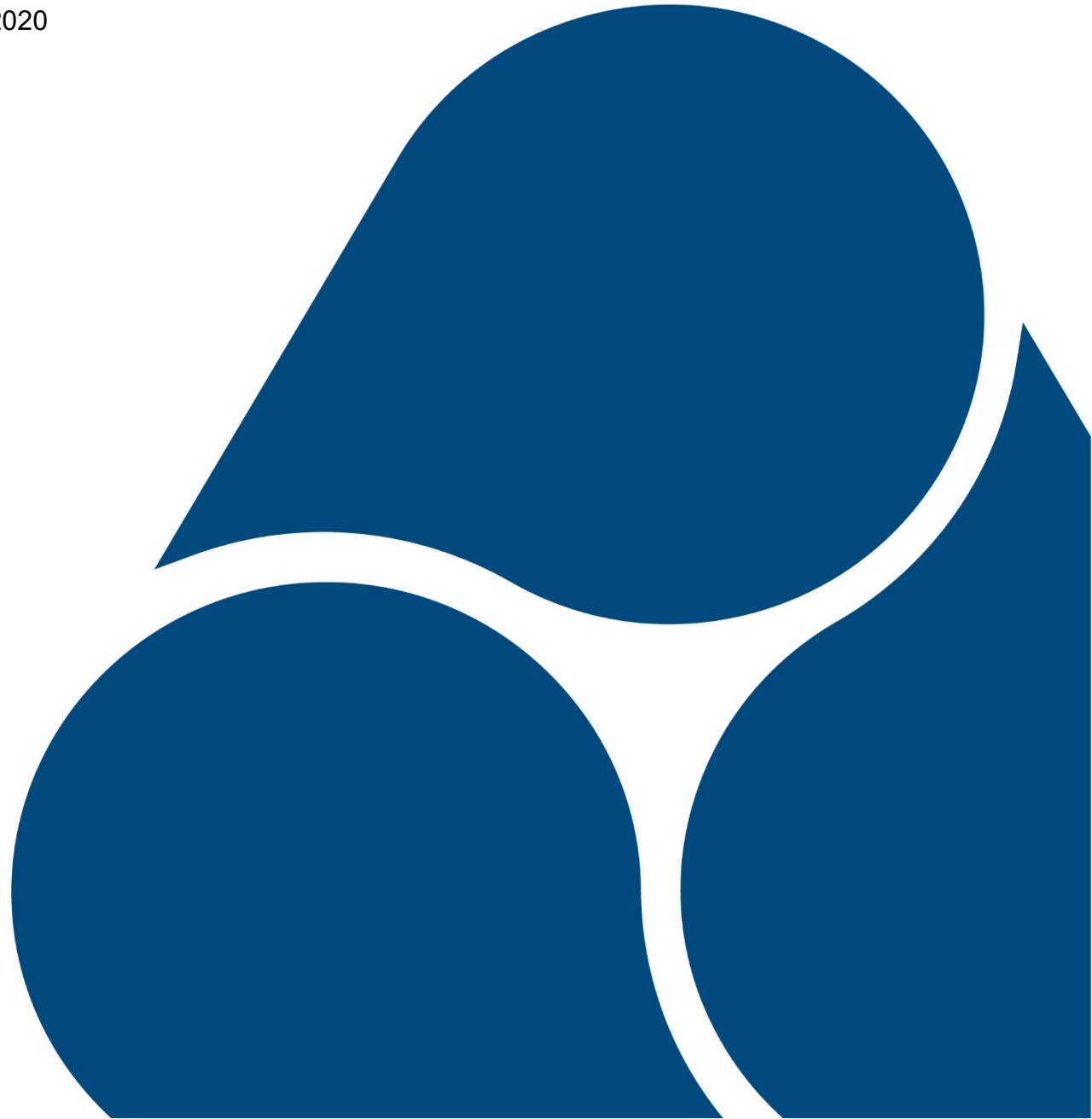
Office for Product Safety & Standards

EU Regulation for Accreditation and Market Surveillance 765/2008 applying in respect of Northern Ireland from 1 January 2021

End of Transition Period Guidance

December 2020



Contents

Guidance

1 What's changing?

1.1 This guidance relates primarily to Regulation on Accreditation and Market Surveillance (EC) 765/2008 ('RAMS'), which sets out requirements on accreditation and market surveillance relating to the marketing of products subject to EU harmonised legislation. This guidance highlights the changes most relevant to Market Surveillance Authorities with responsibility for the NI market[1], and authorities in charge of the control of products entering the NI market.

1.2 This guidance describes how legislation will continue to apply from the end of the Transition Period. Authorities may need to take action now to ensure they are prepared for the 1 January 2021.

Manufactured Goods regulations in NI, after the Transition Period

1.3 **The current EU legislative framework for manufactured goods will largely continue to apply in Northern Ireland.** The framework consists of 'general' requirements that apply to all harmonised goods, and 'specific' requirements (which, if they are more detailed and specific, may supersede the general requirements) that apply to a number of individual product categories – for example, electrical goods and toys.

1.4 **RAMS will continue to apply directly in Northern Ireland.** This means that its provisions generally do not require further legislation to have legal effect in Northern Ireland. The powers available to market surveillance and enforcement authorities are unchanged. Other UK regulations implementing product-specific EU legislation, and UK domestic legislation including the General Product Safety Regulations, are being updated to reflect the end of the Transition Period, ensuring an appropriate set of enforcement powers are in place. Although the whole United Kingdom will exit the Transition Period on 31 December, references to 'Member State' in RAMS should generally be read to include the UK in respect of Northern Ireland. In some UK legislation which applies in Northern Ireland and implements EU rules, Northern Ireland is not a "Member State", but references to a 'relevant state' will include both Northern Ireland and Member States.

1.5 **Economic operator responsibilities for goods placed on the market in Northern Ireland will remain largely the same.** However, these responsibilities may now fall to different actors in the supply chain – the most significant of these relate to those operators that have become 'importers' having previously been 'distributors'. Further information relating to placing manufactured goods on the market can be found in general guidance and product specific guidance.

[1] Market Surveillance Authorities' includes those authorities designated in legislation as market surveillance authorities, whose responsibility includes the NI market. It also includes authorities designated as 'enforcers' in respect of Nothern Ireland that are otherwise expected to dispense a market surveillance function.

Accreditation

1.6 **UKAS will continue as the UK's appointed national accreditation body**. Its role in accrediting UK approved bodies will be the same as its current role for UK-based notified bodies. See further information on accreditation and conformity assessment is available.

Market Surveillance

1.7 **The same Market Surveillance Authorities will retain responsibility for regulating the Northern Ireland market,** where most EU single market rules for goods will continue to apply, from 1 January 2021[2]. This includes Authorities with responsibility for the whole UK market, even if they are based in Great Britain.

1.8 **Authorities acting in respect of NI should continue to refer to the most recent and available version of the European Commission 'Blue Guide' for guidance on the application of EU goods legislation.**

1.9 **Reporting obligations for Market Surveillance Authorities acting in respect of Northern Ireland will continue to apply,** and further information on how these obligations should be fulfilled will be provided to Authorities before the end of the Transition Period.

1.10 **The goods movements falling within scope of Articles 27 - 29 of RAMS will change,** but Market Surveillance Authorities and operational partners should continue to take a risk-based and intelligence led approach.

1.11 **While EU legislation will apply, Northern Ireland will continue to be a key part of the UK product safety system.** The Office for Product Safety and Standards (OPSS) will continue to coordinate the application of UK and EU market surveillance legislation and provide support to Authorities and their sponsoring Government Departments across the whole UK. A version of RAMS will be retained in UK law, and will be applicable in respect of Great Britain from 1 January 2021.

1.12 Further information on the application of the Regulation on Market Surveillance and Compliance of Products 2019/1020 ('MSC') in Northern Ireland from July 2021 will be made available in due course.

[2] A full list of these regulations is provided in Annex II of the Northern Ireland Protocol: https://www.gov.uk/government/publications/new-protocol-on-irelandnorthern-ireland-and-political-declaration

3. Market Surveillance (RAMS Articles 15 - 26)

What is Market Surveillance?

3.1 Market surveillance is the set of activities taken by public authorities that ensures the safety and compliance of products placed on the market (with the exception of food, feed, living plants and animals, products of human origin and products of plants and animals relating to their reproduction). RAMS sets out obligations for market surveillance authorities to ensure that products conform to relevant legislation. These include requiring relevant authorities to:

- carry out risk-based assessments;
- seek such information and documentation from economic operators that appears to be necessary for the purpose of carrying out their functions;
- ensure that products conform to applicable requirements set out in relevant sector specific legislation;
- ensure that products which present a serious risk requiring rapid intervention, including a serious risk where the effects are not immediate, are recalled, withdrawn or prohibited from being placed on the market and the EU Commission is notified.
- work in collaboration with other authorities to prevent unsafe and non-compliant products entering the market (see Section 4).

Overall approach to market surveillance in NI

3.2 The majority of market surveillance activity by authorities will continue to take place after goods have been made available on the NI market. Authorities will continue to take a risk-based and intelligence-led approach to regulating the NI market.

3.3 RAMS requires that Market Surveillance Authorities make “appropriate checks” on an “adequate scale”, on the basis of risk assessment, of goods placed on the market in Northern Ireland. This includes goods manufactured in Northern Ireland in addition to those manufactured elsewhere. Authorities who have a UK-wide scope will need to ensure that the obligations in respect of Northern Ireland are fulfilled.

Reporting of serious risk and non-compliance (Articles 22 - 23)

3.4 Market Surveillance Authorities acting in respect of NI will still be required to report products presenting a serious risk to the EU Commission, including measures or voluntary measures taken (noting their duration and nature), data necessary for the identification of the product, the origin and supply chain of the product, the related risk, and any other available details. Authorities will also be required to report all relevant information (including results of testing, identification of risks) and restrictive measures taken in respect of other products presenting a risk.

3.5 Authorities have previously entered information directly into RAPEX and ICSMS systems or supplied it to OPSS via the UK’s Product Safety Database. Further guidance will be provided setting out the mechanism by which Market Surveillance Authorities will be required to supply this information to the EU Commission in respect of the Northern Ireland market, after the end of the Transition Period.

3.6 If a Market Surveillance Authority acting in respect of Northern Ireland suspects that a non-compliant or unsafe product is also available on the GB market – and would be unlikely to meet regulatory requirements in GB – they should make the relevant Market Surveillance Authority in GB aware of the product, while ensuring that any information obtained from EU databases and systems is not shared.

4 Control of Products Entering Northern Ireland (RAMS Articles 27 – 29)

Detaining unsafe and non-compliant products

4.1 Border Force officers should continue to detain products if they are suspected of being unsafe or non-compliant, and refer these consignments to the relevant Market Surveillance Authority, via the Office for Product Safety and Standards.

4.2 The Office for Product Safety and Standards will continue to:

- identify consignments of consumer products that could pose a risk to the public (and facilitate this for other manufactured goods within scope of RAMS)
- refer these consignments to the relevant Market Surveillance Authority

4.3 Products that are deemed by MSAs to be unsafe should be denied release into free circulation by the authorities in charge of control of products entering the NI market.

Goods within scope of Articles 27 - 29

4.4 The goods within scope of Articles 27 – 29 of RAMS are those that are subject to a ‘release for free circulation’ customs procedure (and are otherwise within scope of RAMS). This applies to most goods entering Northern Ireland from non-EU countries.

4.5 Movements of goods directly from the Republic of Ireland and other EU countries into Northern Ireland are out of scope of this section of RAMS.

5 Further information

5.1 Authorities with queries on the application of RAMS or related legislation can contact OPSS using the following contact details: opss.enquiries@beis.gov.uk

Office for Product Safety and Standards
Department for Business, Energy and Industrial Strategy
4th Floor, Cannon House, 18 The Priory Queensway, Birmingham B4 6BS
www.gov.uk/government/organisations/office-for-product-safety-and-standards

Alternative format versions of this report are available on request from enquiries@beis.gov.uk