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My Lords,

## **Draft Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019**

I would like to thank you all for your contributions during Grand Committee debate on the above EU Exit Regulations last week. I welcomed your insightful comments and I hope I was able to reassure you that these Regulations are essential to ensure the UK continues to have a robust and highly effective product safety and legal metrology regime in the event of no deal. During the debate I promised to write on a number of specific points that were raised, and I have set out my responses to these below.

### **Consultation and informal engagement with stakeholders**

The noble Baroness, Lady Crawley, asked for a list of organisations, businesses, market surveillance authorities and consumer organisations that my Department engaged in informal consultation. I have provided (at Annex A) a list of the organisations that are content for their details to be shared. Other organisations who were engaged with, but did not want their details to be shared, were also spread across this wide range of stakeholder groups. Throughout engagement, stakeholders have been supportive of the engagement and reassured by the approach. We continue to keep in touch with stakeholders and the Office for Product Safety and Standards expects to publish further guidance for businesses and stakeholders in due course.

### **Access to EU databases**

The noble Baroness, Lady McIntosh, raised concern about the impact that the potential loss of access to EU product safety databases could have on UK consumers. I would like to reassure her that, in the event of a no deal, the UK's robust system of market surveillance will continue to work to limit the number of unsafe and non-compliant goods available to UK consumers and businesses.

Information from RAPEX and other EU databases form only a small portion of the intelligence used by UK market surveillance authorities. They also use a variety of other intelligence sources, including that received from cooperation with Customs Authorities,

Border Force, and from business and consumers to determine whether a product should be checked. The UK will continue to have access to the publicly available alerts from RAPEX. However, as we will no longer be a member state, we will not receive access to more detailed member-only information on alerts.

My Department is developing three new databases to replace the capability that is currently provided by the Commission. These will help ensure the UK is able to quickly identify new threats and be able to mount coordinated and rapid responses to those threats, as well as target the interception of high-risk products, including imports.

### **Health and Safety Executive**

The noble Baroness, Lady Donaghy, asked for some assurances around the Health and Safety Executive's (HSE) Chief Executive (CEO) position and its capability to perform its responsibilities post-exit. Since the previous CEO left HSE in August 2018, Dr David Snowball, who is an experienced HSE senior leader, has been acting Chief Executive. The recruitment of a new CEO is in hand and HSE expects to be able to appoint someone to take up post in the Summer.

Dr Snowball and his senior management team have the confidence of the HSE Board to lead the organisation during this time. The Regulations will not change the approach or the framework for product safety, it will convert it to a UK regime. There are no changes to substantive product essential safety requirements or conformity assessment procedures which must be met for industrial products or civil explosives being placed on the UK market. HSE is therefore confident that no additional resources will be required by it as a consequence of the Regulations. HSE is an agency of the Department for Work and Pensions and if the noble Baroness seeks any further assurances regarding its CEO recruitment, I am sure my Ministerial colleagues in that department would be happy to help.

### **United Kingdom Accreditation Service**

The noble Lord, The Earl of Lindsay, wanted assurances for safeguards around the United Kingdom Accreditation Service's (UKAS) position as a not-for-profit national accreditation body. Hopefully I was able to provide him with suitable assurances on his points during the debate, but I did commit to write on this point. I can confirm that we are not altering the legal recognition of UKAS as the sole national accreditation body or the legal rules and requirements concerning the national accreditation body, and that accreditation, as defined in Regulation (EC) 765/2008 (which will be brought into UK law on exit) as amended by this legislation, may only be offered by a national accreditation body. Accreditation certificates attesting that conformity assessment bodies meet the approved body requirements will only be able to be issued by the UK national accreditation body, which remains UKAS.

### **Costs and awareness of new UKCA mark and concerns over counterfeit goods**

The noble Baroness, Lady Burt, highlighted some concerns on behalf of Electrical Safety First, asking if the Government had any plans to increase awareness of the new UKCA mark and also what plans there were to prevent more counterfeit and sub-standard electrical goods from being sold, particularly online, after exit. Additionally, she asked about the costs of changing to the new UKCA mark and having to make use of two separate conformity assessment bodies (one in the UK and one in the EU).

Regarding the question of whether Government has any plans to increase awareness around the new UKCA mark, we recognise the importance of helping businesses to prepare for a no deal scenario and the changes which would come into effect on exit day. We have therefore published detailed guidance on GOV.UK on how to use the UKCA marking and conducted extensive engagement with businesses after publication of the marking, to explain the circumstances in which the marking should be applied.

Additionally, the Government has been actively engaging with trade associations and multiple Chambers of Commerce around the UK to provide detailed guidance and address queries from businesses. We will continue to engage with businesses to ensure they get the information they need on using the UKCA marking in a no deal scenario.

On the question of the costs of changing to the new UKCA mark, it has not been possible to quantify costs in this area due to a lack of reliable data and the fact that it would in practice vary significantly depending on circumstances. However, provisions in the Regulations mean that most manufacturers will not need to apply the UKCA mark because in most cases manufacturers will still be able to use the CE marking for the UK market.

Concerning the use of two conformity assessments, one for UKCA and one for CE marking, manufacturers will not need to do this during the period of continued acceptance of the CE marking. Manufacturers can continue to use the CE marking for both UK and EU markets if they (a) use an EU-recognised conformity assessment body or (b) have transferred their certificates of conformity to an EU-recognised body. Before making any changes to these arrangements Government would engage with businesses to understand the potential costs. Although the Regulations are for no deal, I would add here that for the Future Economic Partnership our ambition is that products should only require one set of approvals to be sold in both the EU and UK markets.

Regarding the concerns over prevention of counterfeit goods, the Office for Product Safety and Standards is providing increased operational support for local authority led teams at ports and borders, including the National Trading Standards 'Safety at Ports' project. This aims to improve the capacity and capability of local Trading Standards conducting checks on goods entering the country. Although we keep the threat under continual assessment, we do not anticipate any immediate increase in the sale or offer of counterfeit goods after the UK leaves the EU.

I hope you have found these responses helpful and I would be happy to provide further information on the Regulations or to meet to discuss it further should you like. For information, I am copying this letter to Baroness Buscombe, the Parliamentary Under Secretary of State for Work and Pensions in the Lords.

A copy of this letter will be placed in the Libraries of the House.

A handwritten signature in black ink, appearing to read 'Henley', written in a cursive style.

**Rt Hon Lord Henley**

## **ANNEX A: List of stakeholders engaged with**

### Trading Standards

- Suffolk
- Kent
- Slough
- North Yorkshire
- Hertfordshire
- Thurrock
- Essex
- Newcastle
- Chartered Trading Standards Institute (CTSI)

### Regulators

- UK Weighing Federation (UKWF)
- OFCOM

### Consumer Associations

- Which?

### Accreditation Body

- United Kingdom Accreditation Service (UKAS)

### National Standards Body

- British Standards Institution (BSI)

### Advisory Body

- EURIS

### Trade Associations

- Association of Manufacturers of Domestic Appliances (AMDEA)
- Agricultural Engineers Association (AEA)
- British Aerosol Manufacturers' Association (BAMA)
- British Cables Association (BCA) – via EURIS
- British Compressed Air Society (BCAS) – via EURIS
- British Electro-technical & Allied Manufacturers Association (BEAMA)
- British Fluid Power Association (BFPA) – via EURIS
- British Marine
- British Measurement and Testing Association (BMTA)
- British Plastics Federation (BPF) – via EURIS
- British Pump Manufacturers Association (BPMA)
- British Pyrotechnists Association (BPA)
- British Retail Consortium (BRC)
- British Toy & Hobby Association (BTHA)
- Catering Equipment Suppliers Association (CESA) – via EURIS
- Cosmetic, Toiletry & Perfumery Association (CTPA)
- Engineering & Machinery Alliance (EAMA) – via EURIS
- EEF – The Manufacturers Organisation
- Engineering Construction Industry Association (ECIA)
- Federation of Environmental Trade Associations (FETA) – via EURIS
- Federation of Sports and Play Associations (FSPA)

- Food & Drink Federation (FDF)
- Forecourt Equipment Federation (FEF)
- GAMBICA
- Lift & Elevator Industry Association (LEIA)
- Manufacturing Technologies Association (MTA) – via EURIS
- Processing & Packaging Machinery Association (PPMA)
- The Engineering Equipment & Materials Users Association (EEMUA)
- The Explosives Industry Group (EIG)
- The Lighting Industry Association (LIA)
- EQUITOY (Toy Safety)
- Renewable Energy Association (REA) – via EURIS
- Scottish Whiskey Association (SWA)
- Small Electrical Appliance Marketing Association (SEAMA)

### Businesses

- LEGO
- Hornby
- Boots Ltd
- Procter & Gamble Ltd (P&G)
- Renishaw
- Tesco PLC
- Unilever Ltd
- RAMORA UK
- EPC – Groupe
- Orica
- MAXAM
- Event Horizon
- Chemring
- Brexco

### Representative Bodies

- British Hallmarking Council (BHC)
- Heating and Hot Water Industry Council (HHIC)
- TechUK
- British Glass

### Assay Offices – (Hallmarking)

- London
- Edinburgh
- Birmingham
- Sheffield

### Charities

- British Safety Industry Federation (BSiF)
- The Royal Society for the Prevention of Accidents (RoSPA)

### Forums

- Pressure Equipment Consultation Forum (PECF)
- Pyrotechnic Articles Liaison Group (PALG)
- National Product Safety Group
- SPEX Group