



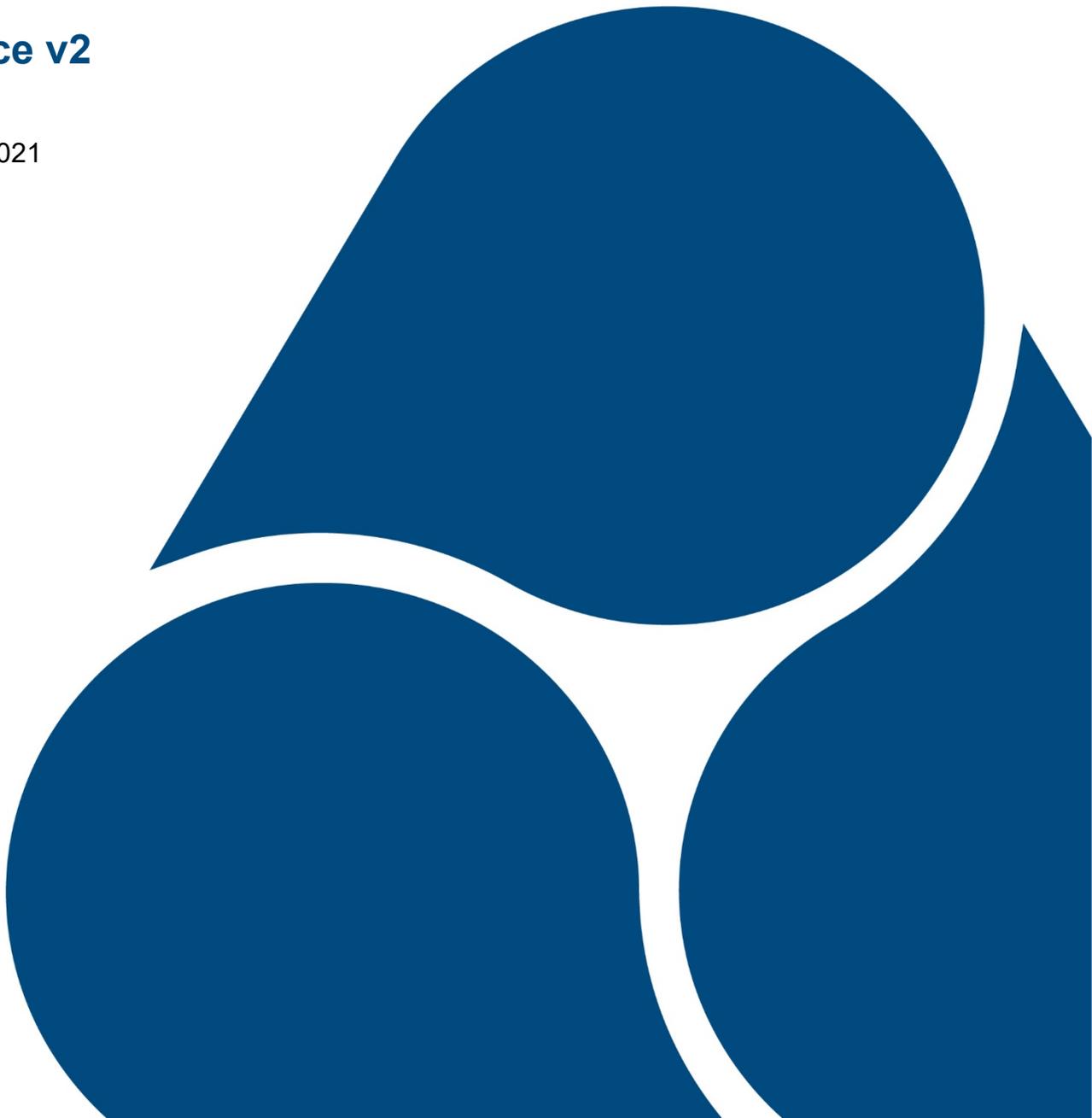
Office for Product
Safety & Standards

Electrical Equipment (Safety) Regulations 2016

As they apply to equipment being supplied in or into Northern
Ireland

Guidance v2

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Guidance

1. Introduction

This Guide is for businesses placing electrical equipment on the market in Northern Ireland.

While the Northern Ireland Protocol ('the Protocol')¹ is in force², Northern Ireland ("NI") will align with relevant EU rules relating to the placing on the market of manufactured goods. Electrical equipment placed on the NI market must follow UK law as it applies to NI. This is the Electrical Equipment (Safety) Regulations 2016. These apply across the UK but some of their provisions apply differently in NI so that they implement in NI the Directive 2014/35/EU on the electrical equipment designed for use within certain voltage limits.

This Guide is designed to help you comply with The Electrical Equipment (Safety) Regulations 2016, as they apply in NI. References to "The 2016 Regulations" in this document are therefore references to The Electrical Equipment (Safety) Regulations 2016, as they apply in NI.

The 2016 Regulations set out the requirements that must be met before electrical equipment can be placed on the NI market. The purpose of the legislation is to ensure safe equipment is placed on the market by requiring manufacturers to show how their equipment meets the 'principal elements of the safety objective'.

Since 16 July 2021, the EU Regulation on Market Surveillance 2019/1020 (referred to as "MSC" in this document) has replaced the market surveillance provisions in the Regulation on Accreditation and Market Surveillance 765/2008. For the duration of the Protocol, EU rules on goods apply in Northern Ireland, including MSC, which will be directly applicable in NI and applies in addition to the 2016 Regulations. MSC does not apply in Great Britain.

Article 4 of MSC requires that an economic operator responsible for compliance must be based in the EU (or NI) in order to lawfully place certain products on the market, including electrical equipment. This responsible economic operator must fulfil certain compliance tasks. This Guide summarises key requirements of Article 4, but detailed guidance is available here:

<https://www.gov.uk/government/publications/placing-certain-products-on-the-northern-ireland-market>

Electrical equipment placed on the Great Britain ("GB") market (GB comprises England, Scotland and Wales) must follow the separate rules for the GB market. If you are placing electrical equipment on the GB market, you should read the relevant separate guidance.

<https://www.gov.uk/government/publications/electrical-equipment-safety-regulations-2016>

¹ The Protocol on Ireland/Northern Ireland (also known as 'The Northern Ireland Protocol' and referred to in this document as 'the Protocol').

² It should be noted that the Government is seeking to find a new balance in operating the Protocol, in order to place it on a more sustainable footing. These proposals are set out in the Government's July 2021 [Command Paper \(Northern Ireland Protocol: the way forward\)](#). This guidance will be updated to account for any changes.

The government committed to providing unfettered access for qualifying NI goods to the rest of the UK market after 1 January 2021. Electrical equipment that can be placed on the market in NI in accordance with the 2016 Regulations, as they apply to NI, can be sold in the rest of the UK without any additional approvals. The arrangements here are explained in detail in the separate guidance for placing electrical equipment on the market in GB.

2. Legislative Background

The EU Directive 2014/35/EU on the electrical equipment designed for use within certain voltage limits (commonly called the Low Voltage Directive) was adopted by the European Parliament and Council of Ministers on 26 February 2014. The Electrical Equipment (Safety) Regulations 2016 implemented the Directive into UK law. As such the Regulations apply to the whole of the UK.

The Directive will continue to apply in respect of NI, for as long as the Protocol on Ireland / Northern Ireland is in force. However, the 2016 Regulations also implement parts of the Protocol which have particular provisions in them, recognising that the UK has left the EU.

There is therefore one set of UK 2016 Regulations, but some of the provisions apply differently in NI and GB. References to the 2016 Regulations in this guidance are references to those Regulations as they apply in NI.

The 2016 Regulations were amended by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 and The Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020 to give effect to The Protocol of Ireland and Northern Ireland (“The Northern Ireland Protocol”) as it relates to the placing on the NI market of electrical equipment³.

3. Scope

All new electrical equipment within certain voltage limits that is for supply in NI must comply with the requirements of the 2016 Regulations.

The 2016 Regulations apply to all electrical equipment that is designed for use with a voltage rating of between 50 and 1,000 volts for alternating current and between 75 and 1,500 volts for direct current. The Regulations cover domestic electrical equipment and equipment that is intended for use in the workplace.

The 2016 Regulations do not apply to electrical equipment listed in regulation 3(2) of the 2016 Regulations (for example, electrical equipment for radiology and medical purposes, see regulation 3(2) for the full list).

The 2016 Regulations do not apply to electrical equipment placed on the market before 8 December 2016.

³ In 2019, the 2016 Regulations were amended by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 to fix any deficiencies that arose from the UK leaving the EU (such as references to EU institutions) and make specific provision for the UK market. The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 were then amended by the Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (EU Exit) Regulations 2020 to apply to Great Britain only, and not to Northern Ireland, in support of implementing the Protocol.

4. Responsible economic operator as defined by MSC

If electrical equipment is offered for sale or supply to NI (or EU) consumers, it is considered to be placed on the EEA market. Article 4 requires that a responsible economic operator must be based in NI (or the EU) to carry out certain compliance tasks in respect of that equipment. This can be the manufacturer, an importer, a manufacturer's authorised representative, or a fulfilment service. They must carry out the compliance tasks in Article 4 and their contact details must be indicated on the equipment or on its packaging, the parcel or an accompanying document:

<https://www.gov.uk/government/publications/placing-certain-products-on-the-northern-ireland-market>

5. Obligations of manufacturers

The 2016 Regulations

A manufacturer is a person who manufactures electrical equipment, or has electrical equipment designed or manufactured, and markets that equipment under their name or trademark.

The obligations of manufacturers of electrical equipment include:

1. Before placing electrical equipment on the NI market, a manufacturer must ensure that it has been designed and manufactured in accordance with the principal elements of the safety objectives. These are set out in Schedule 1 to the 2016 Regulations. Manufacturers must also carry out the relevant conformity assessment procedure and draw up the technical documentation.
2. Once this has been done, a manufacturer must draw up an EU declaration of conformity, and affix the CE marking, visibly, legibly and indelibly to the equipment. Where it is not possible or warranted, on account of the nature of the equipment, to affix the CE marking to the equipment, it must be affixed to the packaging and the accompanying documents.
3. Manufacturers must keep technical documentation and the declaration of conformity for 10 years after the equipment has been placed on the NI market.
4. Manufacturers must also label the equipment with their name, registered trade name or registered trademark and address; the type batch or serial number (or other identification). Where it is not possible for this information to be indicated on the equipment, the manufacturer should ensure it is indicated on the packaging or in a document accompanying the equipment.
5. Manufacturers must ensure that the equipment is accompanied by instructions which are clear, legible and in easily understandable English.
6. Manufacturers must ensure that procedures are in place for series production to remain in conformity with Part 2 of the 2016 Regulations. In doing so, they must take account of any changes in electrical equipment design or characteristics, and any change in a harmonised standard or in another technical specification by reference to which the EU Declaration of Conformity was drawn up.

7. Manufacturers must, when appropriate with regard to any risk posed to consumers, carry out sample testing of equipment they have placed on the NI market and must investigate any complaints that the electrical equipment is not in conformity with the relevant legal requirements in the 2016 Regulations and keep records of these complaints.
8. Manufacturers must take action where they have reason to believe that the electrical equipment they have placed on the NI market is not in conformity with the relevant legal requirements in the 2016 Regulations.
9. Manufacturers must also cooperate with and provide information to enforcing authorities following any requests.

MSC

If electrical equipment is offered for sale or supply to NI (or EU) consumers, it is considered to be placed on the EEA market. Article 4 requires that a responsible economic operator must be based in NI (or the EU) to carry out certain compliance tasks in respect of that equipment. This can be the manufacturer, the importer, a manufacturer's authorised representative, or a fulfilment service. The responsible economic operator must:

1. **Keep documentation:** Verify that the EU declaration of conformity or declaration of performance and technical documentation have been drawn up, keep the declaration of conformity or declaration of performance at the disposal of market surveillance authorities for 10 years and ensure that the technical documentation can be made available to those authorities upon request.
2. **Provide documentation:** If a reasoned request is made by a market surveillance authority, provide them with all information and documentation necessary to demonstrate the conformity of the product.
3. **Notify risk:** If there is reason to believe a product presents a risk, inform the market surveillance authority.
4. **Cooperate:** Cooperate with market surveillance authorities, including requests to take appropriate corrective action. If that is not possible, mitigate the risks presented by the product when they believe the product presents a risk or are requested to do so by the market surveillance authorities.

The contact details of the responsible economic operator must be indicated on the product or on its packaging, the parcel or an accompanying document.

6. Obligations of authorised representatives

A manufacturer can appoint an authorised representative to perform certain tasks on their behalf.

An authorised representative appointed by a manufacturer to represent them in either the NI or European Economic Area (EEA) markets cannot be based in GB. This means that GB based authorised representatives cannot carry out tasks on the manufacturer's behalf for products being placed on the NI or EEA markets.

An authorised representative based in NI can, under the 2016 Regulations as they apply in NI, carry out tasks on the manufacturer's behalf for products placed on the NI or EEA markets. An authorised representative must comply with all the duties imposed on the manufacturer under the 2016 Regulations that they are appointed by written mandate by the manufacturer to perform.

The mandate must authorise the representative to at least perform the manufacturer's obligation under regulation 7 (retention of technical file) and regulation 13 (provision of information and co-operation) but cannot include the requirement to design and manufacture in accordance with the principal elements of the safety objective (set out in regulation 4).

A manufacturer remains responsible for the proper performance of any obligations the authorised representative performs on their behalf.

Any references in the 2016 Regulations to the manufacturer are to be taken to include a reference to the authorised representative including in relation to penalties for failure to comply with those duties.

7. Obligations of importers

For the purposes of the 2016 Regulations as they apply in NI (under the Protocol), an importer is a business or person established in NI or the EEA who places electrical equipment from outside of the EEA or NI on the NI or EEA market. Therefore, a business or person based in NI who is supplied with a product from GB will be an importer under the 2016 Regulations if they then sell that product on the NI (or EEA) markets.

The obligations of importers include:

1. Before placing electrical equipment on the NI market an importer must ensure that it is in conformity with the principal elements of the safety objectives and that each economic operator is complying with their obligations in the 2016 Regulations. If the electrical equipment presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.
2. The importer must ensure that the relevant conformity assessment has been carried out by the manufacturer; the manufacturer has drawn up technical documentation and the EU Declaration of Conformity; has affixed CE marking visibly, legibly and indelibly to the equipment, or, where this is not possible or warranted because of the nature of the equipment, on the packaging and accompanying documents.
3. The importer must keep a copy of the EU Declaration of Conformity and technical documentation for a period of 10 years after the equipment has been placed on the NI markets.
4. The importer must provide their name trade, registered trade name and a postal address at which they can be contacted on the electrical equipment, or, where it is not possible to put this information on the equipment itself, in a document accompanying the equipment.
5. The importer must ensure that equipment they place on the NI market is accompanied by instructions which are in easily understandable English.
6. The importer must, when appropriate with regard to any risk posed to consumers, carry out sample testing of equipment they have placed on the NI market and investigate complaints about electrical equipment that is not in conformity with the 2016 Regulations and keep a register of those complaints.
7. The importer must take action where they have reason to believe that the electrical equipment they have placed on the NI market is not in conformity with the 2016 Regulations.

8. The importer must ensure that while electrical equipment is under their responsibility, its storage and transport conditions do not jeopardise its conformity with the essential health and safety requirements.
9. The importer must also cooperate with and provide information to enforcing authorities following any requests.

8. Obligations of distributors

A distributor is any person, other than the manufacturer or importer, who makes electrical equipment available on the NI or EEA markets.

NI businesses which were distributors of electrical equipment supplied to them from GB should now consider whether they are classified as importers under the 2016 Regulations and therefore what additional requirements they need to comply with – see section 6 above. Under the 2016 Regulations, an NI business placing a product from GB on the NI market does so as an importer, not as a distributor under the 2016 Regulations.

The obligations of distributors include:

1. Before making electrical equipment available on the NI market a distributor must act with due care to ensure that it is in conformity with the principal elements of the safety objectives are met and that each economic operator is complying with their obligations in the 2016 Regulations.
2. Where the distributor considers that the equipment is not in conformity with the principal elements of the safety objectives, they must not make the equipment available on the NI market until it has been brought into conformity.
3. Before making equipment available on the market the distributor must verify that the equipment bears the CE marking, is accompanied by the required documents and instructions and that the manufacturer and importer have complied with their duties in relation to labelling and identifying themselves.
4. The distributor must also cooperate and provide information to enforcement authorities if requested.

9. Transitional arrangements

Products placed on the market before 1 January 2021

If you placed an individual fully manufactured product on the EEA or the UK market (either in NI or GB) before 1 January 2021, you do not need to take any additional action. These individual goods can continue to circulate on either market until they reach their end user and do not need to comply with the changes that took effect from 1 January 2021.

A fully manufactured good is 'placed on the market' when there is a written or verbal agreement (or offer of an agreement) to transfer ownership or possession or other rights in the product. This does not require physical transfer of the good.

You can usually provide proof of placing on the market on the basis of any relevant document ordinarily used in business transactions, including:

- contracts of sale concerning goods which have already been manufactured and meet the legal requirements;
- invoices; and
- documents concerning the shipping of goods for distribution.

The relevant economic operator (whether manufacturer, importer or distributor) bears the burden of proof for demonstrating that the good was placed on the market before 1 January 2021.

10. Conformity Marking

Self-declaration

CE marking based on self-declaration of conformity by the manufacturer continues for the NI and EEA markets.

CE marking based on self-declaration of conformity by the manufacturer is still possible for the GB market until 31 December 2022⁴. The UKCA marking can be used from 1 January 2021 instead of the CE marking for electrical equipment placed on the GB market, and must be used from 1 January 2023.

Electrical equipment meeting NI rules (the 2016 Regulations as they apply in NI) – which is CE marked and a qualifying NI good – can be placed on the GB market after 31 December 2022 (see below and also the separate guide to placing electrical equipment on the GB market).

Electrical equipment that is not a qualifying NI good will need to meet the GB rules, including being UKCA marked, if placed on the GB market after 31 December 2022.

Rules around physically affixing the new UKCA marking mirror those which currently apply for the application of the CE marking although until 31 December 2023, the UKCA marking may be affixed to a label affixed to the electrical equipment or a document accompanying the equipment, rather than being affixed to the equipment itself.

It will be possible to affix both the UKCA marking and the CE marking to the same equipment on the basis of self-declaration. When selling to the EEA market, the CE marking remains mandatory.

Further guidance on UKCA marking can be found here:

<https://www.gov.uk/guidance/using-the-ukca-marking>

11. Qualifying Northern Ireland Goods

The government committed to providing unfettered access for qualifying Northern Ireland goods to the rest of the UK market after 1 January 2021. Electrical equipment that can be placed on the market in NI in accordance with the 2016 Regulations, as they apply to NI, can be sold in the rest of the UK without any additional approvals. The guide to placing electrical equipment on the GB market has further details on these arrangements.

You can find out more about qualifying Northern Ireland goods here:

<https://www.gov.uk/guidance/moving-qualifying-goods-from-northern-ireland-to-the-rest-of-the-uk>

⁴ On 24 August 2021 the Government announced the transition period for UKCA marking would be extended until 31 December 2022. Legislation will be placed before Parliament in the autumn to give effect to this.

12. Enforcement and penalties

In NI, district councils have a duty to enforce the 2016 Regulations in relation to consumer goods.

For products intended for workplace or non-domestic premises use, enforcement in NI is the duty of the [Health and Safety Executive for NI](#) (HSENI).

The 2016 Regulations also provide powers to the Secretary of State or a person appointed to act on their behalf to enforce the Regulations and RAMS (Regulation (EC 765/2008 which sets out requirements for market surveillance of products).

The 2016 Regulations provides powers to market surveillance authorities to take action against economic operators for products that present a risk or are not in conformity with the 2016 Regulations as set out in regulation 43 to 49. Economic operators are also required to co-operate with the enforcement authority and on request, must provide information and take action as appropriate.

Safeguard procedure

Enforcement authorities are required under the 2016 Regulations to take all appropriate measures to withdraw from the NI market or to prohibit, and restrict the supply of products bearing CE Marking which may endanger the health and safety of persons, property or the environment if the relevant economic operator does not do so. Under the safeguard procedure, the UK must inform the European Commission and EU Member States immediately of any enforcement action taken indicating the reasons justifying the action. This will enable Member States to take action against similar products placed on the market on their territories. Similarly, if an EU Member State initiates the procedure with respect to action taken on their territories, certain actions are required of UK market surveillance authorities and the Secretary of State. The European Commission will determine whether the action taken is justified; if so enforcement authorities must take necessary measures to ensure the equipment is withdrawn from the market.

Regulators' Code

Market Surveillance Authorities must have regard to the Regulators' Code when developing the policies and operational procedures that guide their regulatory activities in this area. They should carry out their activities in a way that supports those they regulate to comply and grow, including choosing proportionate approaches that reflect risk.

In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Unless immediate action is needed to prevent a serious breach, regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent. The Secretary of State takes account of the provisions of both the Regulators' Code and the Growth Duty in exercising his regulatory functions.

A link to the Regulator's Code can be found here:

<https://www.gov.uk/government/publications/regulators-code>

Penalties

A person committing an offence under the Regulations will be liable to a penalty. Penalties can include:

- a fine or prison sentence of up to three months or to both on summary conviction; or
- a fine or prison sentence of up to two years or both on conviction on indictment

While it is matter for the enforcement authority to decide whether prosecution is appropriate in each case, should a prosecution take place, and the economic operator is found to be in breach, it is at discretion of the court to decide the penalties imposed on the offender.

13. European Commission Guidance

The European Commission have a dedicated webpage on their website where further guidance can be obtained see:

http://ec.europa.eu/growth/sectors/electrical-engineering/lvd-directive_en

The European Commission has produced guidance called the Blue Guide intended to contribute to a better understanding of EU product safety rules and to their more uniform and coherent application across different sectors and throughout the single market. A copy can be found at this link:

Blue Guide: <http://ec.europa.eu/DocsRoom/documents/18027/>

14. Glossary

- **Authorised Representative** – A person appointed in writing by a manufacturer to perform specific tasks for the manufacturer. An authorised representative can be based anywhere in the EEA or NI, but cannot be based in GB, in respect of products being supplied on the NI market. Manufacturers remain ultimately responsible for ensuring these tasks are carried out properly.
- **CE marking** – the CE marking can be placed on products which the manufacturer has demonstrated and declared meet the principle elements of the safety objectives and are intended for the EU or NI markets. CE marked products can only be placed on the GB market until 31 December 2022, although special arrangements have been agreed to ensure NI's unfettered access to the rest of the UK.
- **Distributor** – Any person in the EEA or NI supply chains, other than the manufacturer or the importer, who makes a product available in the EEA or NI markets.
- **Enforcing Authority** – In NI, for products in the use in the workplace, this is the Health and Safety Executive for NI (HSENI). For products for private use this is district councils in NI.
- **EU Declaration of conformity** – A document prepared by the manufacturer which must detail, amongst other things, the following:
 - The specific product to which the declaration is referring;
 - The name and address of the manufacturer and, where applicable, their authorised representative.

This must be kept by the manufacturer for a period of ten years from the date on which the product was placed on the NI market. This declaration must be made available to the enforcing authority upon request.

- **Fulfilment service** - A natural or legal person offering, in the course of commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved. This does not include postal, parcel or freight services.⁵
- **Importer** – A person established in NI who places a product from a country outside of the EEA or NI on the NI market. A person based in NI who before 1 January 2021 distributed a product from GB on the NI (or EEA) market, will now be an importer if they are bringing products into NI from the GB.
- **Manufacturer** – A person who manufactures electrical equipment or has it designed or manufactured and markets that product under their name or trademark.
- **UKCA Marking** – The UKCA (UK Conformity Assessed) marking is the new UK conformity marking used for certain goods being placed on the GB market, in place of the CE marking, which is the conformity marking used in the European Union. All products placed on the GB market from 1 January 2023 must be UKCA marked. Products being placed on the NI market cannot be UKCA marked and must continue to be CE marked, but there are special arrangements in place to ensure NI's unfettered access to the rest of the UK.

⁵ Fulfilment service is defined in Article 3 of MSC and for the purposes of MSC only is considered an economic operator. There are no specific obligations on fulfilment services under the 2016 Regulations.

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