



Every two months, SGS Baseefa Technical Manager Ron Sinclair MBE gives his perspective on the latest developments in the world of standards.

It was in the March 2020 issue of Hazardex, more than two years ago, that I wrote under the headline “Brexit got done”. And we all thought that everything was moving forward, perhaps with more uncertainty than we wanted, but in that direction.

In June this year, the UK Government backtracked and delayed the implementation of certain requirements related to UKCA versus CE marking, on the face of it partially tying the UK into the CE Marking system until 2027. The operative date of 1st January 2022 had already been postponed until 1st January 2023, but this new draft legislation had an initial appearance of yet a further five-year postponement.

Most of those of us in the UK, working in the business of certification of products for use in hazardous atmospheres (Ex Equipment), had originally hoped that, as part of the Brexit deal, we would be granted the same “mutual recognition” status as the equivalent bodies in Switzerland and that, effectively, it would be business as usual. That was not to be, so we became busy setting up partnerships, either with existing EU27 based bodies or, sometimes creating a subsidiary based in the EU27, so that we would be able to offer both ATEX and UKEX certification into the future, and be able to serve the needs of our customers.

In some respects, the government decision

Brexit got undone

was a kick in the teeth, that so much effort had been expended and was no longer needed, adding unnecessary costs to both the certification bodies and the manufacturers that had been working to the original deadlines.

However, a closer look at the proposals, beyond the headlines, shows this to be only partially true.

Manufacturers that are working to a self-declaration regime, such as Internal Control of Production (ATEX Annex VIII), are not reliant on the services of a Notified/ Approved Body and can take their self-declaration forward, just by adding a self-adhesive UKCA marking to the product or packaging and preparing a new Declaration of Conformity. Everything they have done to substantiate the CE marking remains sufficient to add the UKCA marking.

However, for certified product, there is a very important sting in the tail that might catch some manufacturers out.

This easement of the regulations only applies to product that was certified before 1st January 2023. Furthermore, if a new issue of a certificate is issued after January 2023, for example to add a new variant, the whole certificate is considered to have been issued after 1st January 2023, and the easement no longer applies. We will have to wait for the publication of the amending regulations, to see the fine print, but it could be that any addition or alteration to a certificate, beyond a non-technical alteration, such as a change of address of the manufacturer, removes the easement from the product, and full UKEX certification is needed to apply the UKCA marking.

Also, almost all ATEX/UKEX products rely on a Quality Assurance Notification which has a three-year life. Therefore, for QANs issued prior to 1st January 2023, on average, they will be due for renewal eighteen months later. So, since the

QAN is an integral part of the certification process, the easement will last, on average, just eighteen months, rather than the headline figure of five years. If you add in technical changes to the certificate, this possibly brings the average down to about fifteen months.

Of course, the legislation will not be laid before parliament before we have a new prime minister, so what might actually happen is anybody's guess. My contacts at BEIS seem to think that the legislation will go through, with very little change from the details given in the government briefing notes, and I admire their confidence. But this is the third deadline that has been set for removing the CE marking from goods sold in Great Britain. Would anyone care to set the odds of there being yet a fourth deadline?

There has often been a sense of “last minute-ism” in obtaining certification. When the whole of industry is working to the same deadline, this can result in bottlenecks in the certification process. My recommendation is that, where possible, manufacturers should ignore the easement, and ensure that they have the necessary documentation in place well before the deadline for their own product, thus ensuring their sales are not blocked by inadvertent delays in the certification process. If application is made soon enough, we can all cope. ■

About the author

SGS Baseefa's Technical Manager Ron Sinclair MBE will continue to attend the European Notified Bodies Group for ATEX (ExNBG), although representing SGS Fimko, their partner EU Notified Body, now that the UK bodies are excluded. He is Chair of the IECEx Service Facility Certification Committee and a member of the IECEx Executive. He is chair of the UK Standards Committee operating in this area for electrical equipment, and recently retired as chair of the European committee.