



## **BRITISH COMPRESSED GASES ASSOCIATION**

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## **FREQUENTLY ASKED QUESTIONS**

### **BREXIT AND TRANSPORTABLE PRESSURE EQUIPMENT**

This information was last updated on 16 April 2021 and represents BCGA's best attempt to interpret the current status of transportable pressure equipment within UK Regulations following "Brexit".

We offer this interpretation without liability and readers who have involvement in the management and use of Transportable Pressure Equipment (TPE) should make their own assessments and checks with regulatory authorities as appropriate to their business decisions.

The content of this document will be regularly reviewed and updated as best we are able, as new information becomes available.

#### Notes:

1. TPE includes a variety of different containers, such as tankers, pressure receptacles, gas cylinders, tubes, pressure drums, closed cryogenic receptacles, metals hydride storage systems, salvage pressure receptacles, etc.
2. These frequently asked questions relate to anyone who is involved in the transport, handling and use of TPE and aims to provide general guidance on managing TPE.
3. The United Kingdom and Europe continue to have discussions. Individuals should check the latest status of any agreements made, these agreements may change the answers given below.

#### **1: WHEN DID BREXIT HAPPEN?**

A: The United Kingdom (UK) left the European Union (EU) on 31<sup>st</sup> January 2020.

#### **2: WHAT TRANSITION PERIODS ARE IN PLACE?**

A: From 31<sup>st</sup> January 2020 until 31<sup>st</sup> December 2020 existing EU Directives and Regulations applied in the UK. This is now complete.

#### **3: WHAT HAPPENS AFTER 1<sup>ST</sup> JANUARY 2021?**

A: Existing EU Directives and Regulations will still apply whilst new arrangements for UK legislation will be put in place to replace the EU requirements. This is called the "standstill period". Each Directive / Regulation will have its own defined standstill period.

As examples, we understand that:

- for the EU Transportable Pressure Equipment Directive ([EU Directive 2010/35/EU - TPED](#)), 24 months;
- for the EU Pressure Equipment Directive ([EU Directive 2014/68/EU – PED](#)), 12 months.

#### **4: HOW IS THE CARRIAGE OF DANGEROUS GOODS REGULATED IN THE UK?**

A: *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009* [[SI 2009 No 1348](#), as amended] regulate the carriage of dangerous goods, this includes TPE.

*The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010* ([SI 2010 No. 160](#), as amended), regulate the carriage of dangerous goods, including TPE, within Northern Ireland.

These CDG Regulations mandate compliance with the *Agreement Concerning the International Carriage of Dangerous Goods* ([ADR](#)).

After 1<sup>st</sup> January 2021, *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020* [[SI 2020 No 1111](#)] came into force. From 1<sup>st</sup> January 2021, Great Britain (GB) no longer recognises the authority of the TPED as GB legislation. However, TPED remains in force across the EU. The changes introduced will affect, for example, the movement of dangerous goods across national boundaries, placing on the market and how and by whom conformity assessment takes place.

We are still waiting for amended Regulations to be enacted for Northern Ireland.

#### **5: WILL UK OPERATORS STILL BE REQUIRED TO COMPLY WITH ADR?**

A: Yes. ADR is not part of the Brexit negotiations. ADR is a treaty between many countries (more than just those in the EU) and it will still apply in the UK for the movement of dangerous goods, for the foreseeable future. UK (and all other Nations who are signatories to ADR) will comply with ADR.

#### **6: WHAT IS THE DIFFERENCE BETWEEN THE GB MARKET AND THE UK MARKET?**

A: The GB market is England, Scotland and Wales. The UK Market includes the GB Market and Northern Ireland.

#### **7: WHY THE DIFFERENCE BETWEEN THE GB AND UK MARKETS?**

A: Discussions are still ongoing, Northern Ireland may have separate arrangements, which are still to be published.

#### **8: WHAT TPE IS ALLOWED TO BE USED FROM 1 JANUARY 2021?**

A: There will be TPE either already on the GB market or new TPE to be placed on the GB market. This will include:

- Existing Pi marked TPE in accordance with the EU TPED;
- Old pressure receptacles that are only used for national transport;
- New TPE that is placed on the market with a Pi mark (until the end of the standstill period);
- New TPE that is placed on the GB market with a Rho mark; and
- New TPE that is placed on the market with both a Rho mark and a Pi mark.

## 9: WHAT IS A PI MARK?

A: The Pi Mark is a mandatory requirement within the EU TPED – Article 15. The Pi mark is marked on TPE to show that it meets the requirements of the EU TPED.



## 10: WHO AUTHORISES THE PLACING OF A PI MARK ON AN ITEM OF TPE?

A: A Pi mark is applied under the surveillance of an EU Notified Body.

## 11: IN WHAT GEOGRAPHICAL AREA IS THE PI MARK APPLIED?

A: The Pi mark is a requirement of the EU TPED, it is stamped on TPE that is placed on the market for use in the EU (or in other Nations where the TPED is enacted into national legislation).

## 12: WHAT IS A RHO MARK?

A: The Rho mark is a mandatory requirement detailed within the GB CDG (EU Amendment) Regulations – Schedule 1A. The Rho mark is stamped on TPE to show that the TPE is in compliance with the GB CDG Regulations.



## 13: WHO AUTHORISES THE PLACING OF A RHO MARK ON AN ITEM OF TPE?

A: A Rho mark is applied under the surveillance of a GB Appointed Body.

## 14: IN WHAT GEOGRAPHICAL AREA IS THE RHO MARK APPLIED?

A: The Rho mark is a requirement of GB Regulations; it is stamped on TPE that is placed on the market for use in GB.

## 15: WHAT IS AN APPOINTED BODY?

A: An Appointed Body is a body appointed by the GB Vehicle Certification Agency ([VCA](#)) to carry out conformity assessment on TPE. VCA use the United Kingdom Accreditation Service ([UKAS](#)) to carry out the assessment of an Appointed Body.

Note: The UK Competent Authority for TPE is the [Department for Transport](#) (DfT). The VCA are an Executive Agency of the DfT.

The VCA publish a [list of bodies](#) appointed to inspect pressure equipment in the UK.

The Department for *Business, Energy and Industrial Strategy* ([BEIS](#)) issue a list of UK Market Conformity Assessment Bodies. It includes details of Approved Bodies and Notified Bodies (Northern Ireland).

<https://www.gov.uk/uk-market-conformity-assessment-bodies>

## **16: WHAT IS A NOTIFIED BODY?**

A: ADR requires that a Relevant Body carries out conformity assessment on TPE. In the EU each EU member may appoint a Relevant Body as a Notified Body (NoBo) to operate within their jurisdictions.

Notes:

- A 'notified body' means an inspection body meeting the requirements set out in the Annexes to [European Directive 2008/68/EC](#) (on the inland transport of dangerous goods) and the conditions set out in TPED Articles 20 and 26 and notified in accordance with TPED Article 22.
- 'Notification' is the process of awarding notified body status to an inspection body and includes communication of this information to the EU Commission and to the Member States.

Details of EU Notified Bodies are available from the Nando (New Approach Notified and Designated Organisations) Information System

<https://ec.europa.eu/growth/tools-databases/nando/>

## **17: WHAT IS THE STANDSTILL PERIOD?**

A: This is the period after 1<sup>st</sup> January 2021 when the UK will transition over to its own legislation. During this period EU legislation will remain extant. Each piece of legislation will have its own defined period of validity.

## **18: I WANT TO BUY A NEW ITEM OF TPE AFTER 1<sup>ST</sup> JANUARY 2021 BUT BEFORE THE END OF THE STANDSTILL PERIOD, WHAT NEEDS TO HAPPEN?**

A: Until the end of the standstill period you can buy TPE for the EU market and the GB market and it can have the Pi mark stamped on it. This TPE may continue in use in GB for the remainder of its life (subject to satisfactory periodic inspection and test).

If you buy TPE for the GB market, then it may have a Pi mark and/or a Rho mark stamped on it.

## **19: WHAT HAPPENS AFTER THE END OF THE STANDSTILL PERIOD WHEN I WANT TO BUY NEW TPE?**

A: After the standstill period all new TPE placed on the GB market will need to be stamped with a Rho mark.

It may also have a Pi mark stamped on it, effectively allowing use in both GB and EU markets.

It remains that all new equipment placed on the EU market will need to be Pi marked.

**20: CAN I BUY TPE BEFORE THE END OF THE STANDSTILL PERIOD TO STOCKPILE?**

A: Yes. Such TPE must be placed on the market before the end of the standstill period.

**21: WHAT IS THE DEFINITION OF ‘PLACING ON THE MARKET’?**

A: Making available on the market is defined in Regulation 3 of the GB CDG (EU Amendment) Regulations. DfT advise that “any supply of that equipment for distribution or use on that market in the course of a commercial or public service activity, whether in return for payment or free of charge”.

**22: HOW DO I DEMONSTRATE THAT A PI MARKED ITEM OF TPE WAS PLACED ON THE MARKET IN THE UK BEFORE THE END OF THE STANDSTILL PERIOD?**

A: BCGA has been advised that “*Proof of placing on the market can usually be proved on the basis of any relevant document ordinarily used in business transactions. This includes contract of sale concerning goods which have already been manufactured, invoice, documents concerning the shipping of goods to distribution or similar commercial documents.*”.

**23: WHAT MARKS DO I NEED ON NEW TPE FOR USE IN GB ONLY?**

A: New TPE that is for use in GB after the standstill period only requires a Rho mark applied by a GB Appointed Body.

**24: CAN I STILL TRANSPORT MY TPE BETWEEN GB AND THE EU AFTER BREXIT?**

A: Yes. You have to comply with ADR. However, you have to comply with the TPED if you want to place TPE on the EU market.

**25: IF I BUY AN ITEM OF TPE AND IT ONLY HAS THE RHO MARK ON IT, CAN I TRANSPORT IT TO THE EU?**

A: Yes, provided it meets the requirements of ADR. You are allowed to transport the equipment and, if required, empty it into another (suitable) container / process.

**26: IF I BUY NEW TPE AND IT ONLY HAS THE RHO MARK ON IT, CAN I FILL IT IN THE EU?**

A: There could be restrictions on filling some items. You should check local Regulations and seek the agreement of the filler.

**27: IF I BUY NEW TPE AND IT IS RHO MARKED, WHICH I HAVE TRANSPORTED AND FILLED IN THE EU, CAN I RETURN IT TO GB?**

A: Yes, provided the equipment continues to meet the requirements of ADR.

**28: CAN A RHO MARKED ITEM OF TPE BE PLACED ON THE MARKET IN THE EU?**

A: No, a Rho marked item of equipment cannot be placed on the EU market. A Rho marked item of equipment may only be placed on the EU market if it is dual marked with a Pi mark.

**29: WHAT IS THE STATUS OF PI MARKED TPE ALREADY IN GB BEFORE THE END OF THE STANDSTILL PERIOD?**

A: Pi marked equipment that was placed on the GB market before the end of the standstill period can continue in service until the end of its life (subject to satisfactory periodic inspection and testing).

**30. WHAT IS THE STATUS OF EXISTING TPE (PRE-PI MARK) ALREADY IN GB AND UK BEFORE THE END OF THE STANDSTILL PERIOD?**

A: All TPE that has been legitimately placed on the GB or UK market before the end of the standstill period can continue in service until the end of its life (subject to satisfactory periodic inspection and testing).

For additional information refer to BCGA GN 36, *Guidance for the use, inspection and transport of cylinders with various design codes*.

**31: WHAT IS THE DIFFERENCE BETWEEN TRANSPORT, FILLING AND USE?**

A: ADR is concerned with ensuring that any item of dangerous goods is safe to transport. As such it details the standards to be met for the design, construction, testing and marking of dangerous goods containers. As the correct filling of dangerous goods containers is essential to safe transport, then ADR also details the requirements for filling.

The use of TPE is subject to national legislation.

In GB it is mandatory to comply with the CDG Regulations (which implement the TPED in GB until the end of the standstill period). Compliance will also be required with other legislation such as the *Health and Safety at Work etc, [Act](#)*.

In the EU it is mandatory to comply with the TPED as enacted into national legislation.

**32: WHAT HAPPENS TO A PI MARKED ITEM OF TPE THAT NEEDS TO UNDERGO A PERIODIC INSPECTION AND TEST?**

Periodic inspection and test is carried out in compliance with ADR.

A1: The item of TPE can undergo a periodic inspection and test under the supervision of an EU Notified Body. If satisfactory, it can continue as a Pi marked item of TPE for use in the UK and the EU.

A2: The item of TPE can undergo a periodic inspection and test under the supervision of a GB Appointed Body. If satisfactory, it will then be stamped with a

Rho mark. As such, it will no longer be authorised for use in the EU as the validity of the Pi mark will have expired.

**33: WHO CAN CARRY OUT A PERIODIC INSPECTION AND TEST ON A RHO MARKED ITEM OF TPE?**

A: TPE can undergo a periodic inspection and test under the supervision of a GB Appointed Body. If satisfactory, it will then be stamped with details of the Appointed Body and the date the periodic inspection and test was carried out.

**34: IF A PI MARKED CYLINDER IS SUBJECT TO A PERIODIC INSPECTION AND TEST IN GB AND A RHO MARK IS APPLIED, DO YOU HAVE TO DELETE THE PI MARK?**

A: No, existing marks should not be deleted. The Pi mark is evidence of the original approval.

The latest date of the periodic inspection and test identifies its validity.

**35. WHAT HAPPENS TO RHO MARKED TPE IF IT HAS PREVIOUSLY BEEN PI MARKED, AND THE OWNER WANTS A PI MARK RE-VALIDATED?**

A: The Owner of the TPE will need to engage with an EU Notified Body to agree the conditions necessary to undergo a further periodic inspection and test.

NOTE: On successful completion of a periodic inspection and test it will then be stamped with details of the EU Notified Body and the date the periodic inspection and test was carried out. As there is an existing Pi mark, an additional Pi mark shall not be applied.

**36. ALL MY CYLINDERS ARE CURRENTLY PI MARKED. CAN I CONTINUE TO FILL AND TRANSPORT THEM IN THE UK?**

A: Yes, provided periodic inspection and test is maintained.

**37: MY PERIODIC INSPECTION AND TEST IS DUE. WHAT MARKS DO I HAVE TO APPLY?**

A: There are a several answers to this:

For existing TPE which is Pi marked in accordance with the TPED. The TPE can undergo a periodic inspection and test under the surveillance of an EU Notified Body. If satisfactory, it can continue with the Pi mark. This will allow use in Europe, GB and NI.

For old pressure receptacles that are only used for UK national transport. The TPE can undergo a periodic inspection and test under the surveillance of a GB Appointed Body.

For TPE that is placed on the market with a Rho mark. The TPE can undergo a periodic inspection and test under the surveillance of a GB Appointed Body.

For TPE that is placed on the market with both a Rho mark and a Pi mark. This 'dual marked' TPE will need to undergo periodic inspection and test under the surveillance of both a UK Appointed Body and an EU Notified Body to maintain use in the EU and in GB.

**38: CAN I HAVE BOTH A PI MARK AND A RHO MARK ON TPE?**

A: Yes, it is possible to have both the Rho mark and the Pi mark applied to a new item of TPE. This 'dual marked' TPE will need to undergo (periodic) inspection and test under the surveillance of both a GB Appointed Body and an EU Notified Body.

**39: I WANT TO PURCHASE NEW ITEMS OF TPE, BUT I AM NOT SURE IF I AM GOING TO KEEP IT IN GB OR MOVE IT TO THE EU. TO QUALIFY FOR BOTH MARKETS CAN I DUAL MARK IT?**

A: Yes. This 'dual marked' TPE will need to undergo (periodic) inspection and test under the surveillance of a GB Appointed Body and an EU Notified Body.

**40: I HAVE EXISTING TYPE APPROVALS FOR A RANGE OF DIFFERENT TPE. DO THESE EXISTING TYPE APPROVALS REMAIN VALID?**

A: Type Approval Certificates remain valid in accordance with ADR 1.8.7.2.4, 6.2.2 or 6.2.4.

The EU will not recognise Type Approvals issued before 1<sup>st</sup> January 2021 by a UK Notified Body to support new manufacture of TPE after this date.

In GB, if you place on the GB market new TPE, you will need either a new Type Approval issued by the GB Appointed Body or, until the end of the standstill period, a Type Approval issued by a EU Notified Body.

NOTE: Although the CDG Regulations do not refer to Type Approvals directly, it falls under the procedure for 'conformity assessment' within ADR, a requirement for GB TPE which has to be carried out by an Appointed Body.

After the standstill period, new TPE placed on the GB market will require GB Appointed Body Type Approval. The EU Notified Body Type Approval will not be acceptable for new TPE in GB.

**41: I AM A MANUFACTURER, I WANT A GB TYPE APPROVAL?**

A: To gain conformity assessment (equivalent to a Type Approval) use a GB Appointed Body.

**42: WOULD AN APPOINTED BODY HAVE TO BE ESTABLISHED IN GB?**

A: The BCGA understand that an Appointed Body must operate a GB 'head' office and that office should be competent to oversee and validate, if necessary, the results of conformity assessment, including those that take place elsewhere. An Appointed Body can have more than one head office, at least one must be in GB (one may also be in the EU).



An Appointed Body must have obtained accreditation through UKAS and be appointed by the VCA.

It is not adequate to just have a 'brass plate' on the door.

**43: CAN YOU FILL A RHO MARKED CYLINDER IN THE UK?**

A: Yes. The filling requirements of ADR apply.

**44: CAN YOU FILL A PI MARKED CYLINDER IN THE UK?**

A: Yes. The filling requirements of ADR apply.

**45: CAN YOU FILL A RHO MARKED CYLINDER IN THE EU?**

A: The filling requirements of ADR apply. There could be restrictions on filling some items. You should check local Regulations and seek the agreement of the filler.

**46: WHAT LEGISLATION APPLIES IN NORTHERN IRELAND?**

A: The political 'deal' with Northern Ireland is more complicated due to the border with the Republic of Ireland (which remains a EU member). In due course it is expected that Northern Ireland will enact their own amendment to their Carriage of Dangerous Goods Regulations.