

SCHEDULE 1

Amendments to the 2011 Regulation

PART 2

Amendments to Chapter 1

Amendment to Article 1

2. In Article 1 (subject matter), for “CE” substitute “UK”.

Amendments to Article 2

- 3.—(1) Article 2 (definitions) is amended as follows.

- (2) After paragraph 9, insert—

“**9A.** ‘relevant enactment’ means any retained EU law which is derived from an EU instrument issued before exit day harmonising the conditions for the marketing of products in the EU;

“**9B.** ‘the EU Construction Products Regulation’ means Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council [Directive 89/106/EEC](#)(1) as it has effect in EU law as amended from time to time;”

- (3) In paragraph 10—

- (a) for “harmonised”, in the second place it occurs, substitute “designated”;
- (b) for “European” substitute “UK”.

- (4) After paragraph 10, insert—

“**10A.** ‘designated standard’ means a standard which is or becomes designated under Article 18B;

“**10B.** ‘standardisation mandate’ means a request to prepare a standard for the purposes of this Regulation;

“**10C.** ‘recognised standardisation body’ means the British Standards Institution or such other body as the Secretary of State may, in addition, by notice in writing recognise as a standardisation body for the purposes of this Regulation;

“**10D.** ‘coexistence period’ means the period during which a manufacturer may choose to use a designated standard to make a declaration of performance for a construction product covered by it;”

- (5) For paragraph 11, substitute—

“**11.** ‘harmonised standard’ means a standard adopted by a European standardisation body, on the basis of a request issued by the European Commission;

“**11A.** ‘European standardisation body’ means a body listed in Annex 1 to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives [89/686/EEC](#) and [93/15/EEC](#) and Directives [94/9/EC](#), [94/25/EC](#), [95/16/EC](#), [97/23/EC](#), [98/34/EC](#), [2004/22/EC](#), [2007/23/EC](#),

(1) OJ L 88, 4.4.2011, p. 5–43.

2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council(2) as it has effect in EU law as amended from time to time;”.

(6) Omit paragraphs 12 and 13.

(7) After paragraph 13 (omitted by sub-paragraph (6)), insert—

“**13A.** ‘TAB’ has the meaning given to it in Article 29(1) (designation, monitoring and evaluation of TABs);

13B. ‘responsible TAB’ means the TAB which receives the request from the manufacturer to issue the UK Technical Assessment;

13C. ‘relevant TAB’ means any TAB which is designated by the Secretary of State for the product area in question;

13D. ‘UK Assessment Document’ means a document adopted by the responsible TAB for the purpose of issuing UK Technical Assessments;

13E. ‘UK Technical Assessment’ means the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the respective UK Assessment Document;

13F. ‘pre-exit European Assessment Document’ means:

(a) a European Assessment Document for which:

(i) a reference was published in the Official Journal of the European Union under Article 22 as it had effect immediately before exit day; and

(ii) the reference was not removed from publication before exit day; or

(b) guidelines published before 1 July 2013 under Article 11 of Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products(3) which, immediately before exit day, could be used for the purposes of issuing European Technical Assessments under this Regulation;”.

(8) In paragraph 15, for “harmonised” substitute “designated”.

(9) In paragraphs 16 and 17, for “Union” substitute “United Kingdom”.

(10) After paragraph 17, insert—

“**17A.** ‘RAMS’ means Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93;

17B. ‘UK marking’ means the marking in the form published in accordance with Article 30(1) of RAMS;

17C. ‘CE marking’ means the marking presented in Annex 2 to Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(4) as it has effect in EU law as amended from time to time;

(2) OJ L 316, 14.11.2012, p. 12–33.

(3) OJ L 40, 11.2.1989, p. 12–26. Directive 89/106/EEC was repealed by Article 65 of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products. Article 66(3) of Regulation (EU) No 305/2011, as it has effect in EU law, provides that guidelines for European technical approval published before 1 July 2013 in accordance with Article 11 of Directive 89/106/EEC may be used as European Assessment Documents.

(4) OJ L 218, 13.8.2008, p. 30–47.

17D. ‘competent authority’ has the meaning prescribed by the Construction Products Regulations 2013;”.

(11) In paragraph 21—

- (a) for “Union”, in both places it occurs, substitute “United Kingdom”;
- (b) omit “third”;
- (c) after “country” insert “outside of the United Kingdom”.

(12) For paragraph 22, substitute—

“22. ‘authorised representative’ means—

- (a) a person who—
 - (i) immediately before exit day was established in the United Kingdom or a member State and has received a written mandate from a manufacturer to perform specified tasks, in accordance with Article 12 as it had effect immediately before exit day; and
 - (ii) on or after exit day continues to be so established and mandated to act on the manufacturer’s behalf in relation to those tasks; or
- (b) a person who on or after exit day is appointed in accordance with Article 12;

22A. ‘approved body’ has the meaning given to it in Article 39A (approved bodies);

22B. ‘notified body’ means a body—

- (a) which the Secretary of State had before exit day notified to the European Commission and the member States, in accordance with Article 39 as it had effect immediately before exit day; and
- (b) in respect of which no objections had been raised, in accordance with Article 48(5) as it had effect immediately before exit day;

22C. ‘market surveillance authority’ has the meaning prescribed by the Construction Products Regulations 2013;”.

(13) In paragraph 25, for “Regulation (EC) No 765/2008” substitute “RAMS”.

(14) After paragraph 25, insert—

“25A. ‘UK national accreditation body’ means the body appointed by the Secretary of State in accordance with Article 4 of RAMS;”.

Amendments to Article 3

4.—(1) Article 3 (basic requirements for construction works and essential characteristics of construction products) is amended as follows.

(2) In paragraph 1, for “and harmonised technical specifications” substitute “, standards under Article 18A, and UK Assessment Documents”.

(3) In paragraph 3—

- (a) in the first subparagraph—
 - (i) for “harmonised”, in both places it occurs, substitute “designated”;
 - (ii) for “Commission shall, where appropriate and” substitute “Secretary of State may,”;
 - (iii) for “means of delegated acts” substitute “regulations”;
- (b) in the second subparagraph—

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 No. 465

- (i) for “Where appropriate, the Commission shall” substitute “The Secretary of State may”;
- (ii) for “means of delegated acts” substitute “regulations”.