

SCHEDULE 1

Amendments to the 2011 Regulation

PART 5

Amendments to Chapter 4

Omission of Articles 17 and 18

18. Omit articles 17 (harmonised standards) and 18 (formal objection against harmonised standards).

Insertion of new Articles 18A to 18C

19. After Article 18 (omitted by paragraph 18), insert—

“Article 18A

Standardisation mandate

1. A recognised standardisation body may submit a proposal to develop a standard for the purposes of this Regulation to the Secretary of State.

2. The Secretary of State may issue a standardisation mandate to a recognised standardisation body which is, or is not, based on a proposal submitted under paragraph 1.

3. Where the standardisation mandate is based on a proposal submitted under paragraph 1, the mandate must be issued to the body who submitted the proposal.

4. When developing a standard in response to a standardisation mandate, a recognised standardisation body must consult with such persons as it considers appropriate on the content of the standard.

5. A standard must:

- (a) provide the methods and the criteria for assessing the performance of the construction products in relation to their essential characteristics;
- (b) when provided for in the relevant standardisation mandate, refer to an intended use of products to be covered by it;
- (c) where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods less onerous than testing for assessing the performance of the construction products in relation to their essential characteristics;
- (d) determine the applicable factory production control, which must take into account the specific conditions of the manufacturing process of the construction product concerned;
- (e) include technical details necessary for the implementation of the system of assessment and verification of constancy of performance.

Article 18B

Designated standards

1. The Secretary of State may designate as a designated standard:
 - (a) a standard which is prepared by a recognised standardisation body and satisfies the requirements of Article 18A(5);
 - (b) a harmonised standard which is adopted by a European standardisation body before, or on or after exit day, which does not become designated under paragraph 2.
2. Where, immediately before exit day -
 - (a) a reference to a harmonised standard has been published in the Official Journal of the European Union under this Regulation; and
 - (b) a British standard transposing the harmonised standard has been adopted,

the British standard becomes a designated standard on exit day; and the Secretary of State must, as soon as reasonably practicable after exit day, publish a reference to that standard.

The coexistence period for the standard is the period established by the European Commission under Article 17(5) as it had effect immediately before exit day.

3. Before designating a standard under paragraph 1, the Secretary of State must have regard to whether the standard is consistent with any international standards which the Secretary of State considers to be relevant.

4. The Secretary of State is to designate a standard under paragraph 1 by publishing the reference to the standard and maintaining that publication in such manner as the Secretary of State considers appropriate.

Where the standard is a harmonised standard, the published reference may be the reference to a British standard transposing the harmonised standard.

5. Alongside a reference to a standard designated under paragraph 1, the Secretary of State must publish:

- (a) the references of any superseded harmonised technical specifications;
- (b) the date of the beginning of the coexistence period;
- (c) the date of the end of the coexistence period.

6. The Secretary of State may change the date of the beginning or end of the coexistence period for a designated standard to a later date by publishing the revised date in such manner as the Secretary of State considers appropriate.

7. When considering whether the manner of publication of a reference or a revised date is appropriate, the Secretary of State must have regard to whether the publication will draw the standard or the revised date to the attention of any persons who may have an interest in it.

8. Without prejudice to Articles 36 to 38, from the date of the end of the coexistence period, the designated standard is to be the only means used for drawing up a declaration of performance for a construction product covered by it.

At the end of the coexistence period, any other national standards are to be treated as invalid to the extent that they are inconsistent with the designated standard.

9. Where a designated standard is a harmonised standard:

- (a) the provisions of the harmonised standard which address the EU Construction Products Regulation are to be treated as the provisions of the designated standard which address this Regulation;
- (b) any reference in the harmonised standard to a system of assessment and verification of constancy of performance under the EU Construction Products Regulation is to be treated as a reference to the equivalent system under this Regulation.

Article 18C

Objection to a designated standard

1. Where the Secretary of State considers that a designated standard is no longer appropriate, the Secretary of State may, after consulting with such persons as the Secretary of State considers appropriate, decide to maintain, maintain with restriction or withdraw the reference to the designated standard.

2. Where the standard was prepared by a recognised standardisation body in response to a standardisation mandate, the Secretary of State must inform the recognised standardisation body of the decision under paragraph 1 and may request the revision of the standard.”.

Amendments to Article 19

20.—(1) Article 19 (European Assessment Document) is amended as follows.

- (2) In the heading, for “European” substitute “UK”.
- (3) In paragraph 1—
 - (a) for “European”, in both places, substitute “UK”;
 - (b) for “organisation of TABs” substitute “responsible TAB”;
 - (c) for “harmonised”, in each place it occurs, substitute “designated”.
- (4) In paragraph 2, for “European” substitute “UK”.
- (5) In paragraph 3—
 - (a) for “Commission” substitute “Secretary of State”;
 - (b) for “adopt delegated acts” substitute “make regulations”;
 - (c) for “European” substitute “UK”.
- (6) For paragraph 4, substitute—

“4. The Secretary of State may use a UK Assessment Document as a basis for a standardisation mandate with a view to developing a standard for a product referred to in paragraph 1 of this Article.”.

Amendments to Article 20

21.—(1) Article 20 (principles for the development and adoption of European Assessment Documents) is amended as follows.

- (2) In the heading, for “European” substitute “UK”.
- (3) In paragraph 1—
 - (a) in the words before point (a), for “European” substitute “UK”;
 - (b) in point (d), for “Commission” substitute “Secretary of State”.
- (4) In paragraph 2—

- (a) omit “, together with the organisation of TABs,”;
- (b) for “European” substitute “UK”.

Amendments to Article 21

22.—(1) Article 21 (obligations of the TAB receiving a request for a European Technical Assessment) is amended as follows.

- (2) In the heading, for “European” substitute “UK”.
- (3) In paragraph 1—
 - (a) in the words before point (a), for “TAB receiving a request for a European Technical Assessment” substitute “responsible TAB”;
 - (b) in point (a), for “harmonised” substitute “designated”;
 - (c) in points (a) and (b), for “European”, in each place it occurs, substitute “UK”.
- (4) After paragraph 1, insert—

“**1A.** A TAB may use a pre-exit European Assessment Document as a UK Assessment Document provided it has obtained any necessary consent to do so from the organisation of TABs established under the EU Construction Products Regulation.”.
- (5) In paragraph 2—
 - (a) after “the”, in the second place it occurs, insert “responsible”;
 - (b) omit “the organisation of TABs and”;
 - (c) for “Commission”, in each place it occurs, substitute “Secretary of State”.
- (6) In paragraph 3, for “Commission” substitute “Secretary of State”.

Substitution of Article 22

23. For Article 22 (publication), substitute—

“Article 22

Publication

1. When a responsible TAB adopts a UK Assessment Document, it must send a copy of the document to the Secretary of State.

2. Subject to Article 25(1), the Secretary of State must publish a list of references of the final UK Assessment Documents in such manner as the Secretary of State considers appropriate to bring the documents to the attention of persons who may have interest in them.

The Secretary of State must publish any changes to the list.”.

Amendments to Article 23

- 24.** In Article 23 (dispute resolution in cases of disagreement between TABs)—
- (a) for “European” substitute “UK”;
 - (b) for “organisation of TABs” substitute “responsible TAB”;
 - (c) for “Commission” substitute “Secretary of State”.

Amendments to Article 24

25.—(1) Article 24 (content of the European Assessment Document) is amended as follows.

- (2) In the heading, for “European” substitute “UK”.
- (3) In paragraph 1—
 - (a) for “European” substitute “UK”;
 - (b) for “organisation of TABs” substitute “responsible TAB”.
- (4) In paragraph 2, for “European” substitute “UK”.
- (5) In paragraph 3—
 - (a) omit the words from “or the Guidelines” to “European technical approvals”;
 - (b) for “European”, in the second place it occurs, substitute “UK”.
- (6) After paragraph 3, insert—

“4. Where the performance of some of the essential characteristics of the product can appropriately be assessed with methods and criteria already established in pre-exit European Assessment Documents, or used in accordance with Article 9 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⁽¹⁾ before 1 July 2013 in the context of issuing European technical approvals, those existing methods and criteria may, subject to any necessary consent from the organisation of TABs established under the EU Construction Products Regulation, be incorporated as parts of the UK Assessment Document.”.

Amendments to Article 25

26. For Article 25 (formal objections against European Assessment Documents), substitute—

“Article 25

Formal objections against UK Assessment Documents

1. Where the Secretary of State considers that a UK Assessment Document does not satisfy the demands to be met in relation to the basic requirements for construction works set out in Annex 1, the Secretary of State must decide, after consulting the responsible TAB, any other relevant TABs, and such other persons as the Secretary of State considers appropriate, to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the reference to the UK Assessment Document.

2. The Secretary of State must inform the responsible TAB and any other relevant TABs of the decision under paragraph 1 and may request the revision of the UK Assessment Document concerned.”.

Amendments to Article 26

27.—(1) Article 26 (European Technical Assessment) is amended as follows.

- (2) In paragraph 1—
 - (a) for “European”, in each place it occurs (including the heading), substitute “UK”;
 - (b) after “where a” insert “standardisation”;
 - (c) for “harmonised” substitute “designated”;

(1) OJ L 40, 11.2.1989, p. 12–26.

- (d) omit “by the Commission”;
 - (e) for “Article 17(5)” substitute “Article 18B”.
- (3) In paragraph 2—
- (a) for “European”, in the first place it occurs, substitute “UK”;
 - (b) for “TAB receiving the request for the European Technical Assessment” substitute “responsible TAB”.
- (4) For paragraph 3, substitute—
- “3. The Secretary of State must make regulations to establish the format of the UK Technical Assessment.”.

Substitution of Article 27

28. For Article 27 (levels or classes of performance), substitute—

“Article 27

Levels or classes of performance

1. The Secretary of State may make regulations, in accordance with Article 60, to establish classes of performance in relation to the essential characteristics of construction products.

2. Where the Secretary of State has established classes of performance in relation to the essential characteristics of construction products, a recognised standardisation body must use those classes in a standard prepared under Article 18A. A responsible TAB must where relevant use those classes in UK Assessment Documents.

Where classes of performance in relation to the essential characteristics of construction products are not established by the Secretary of State, they may be established by a recognised standardisation body in a standard prepared under Article 18A, on the basis of a revised standardisation mandate.

3. When provided for in the relevant standardisation mandate, a recognised standardisation body must establish in a standard prepared under Article 18A threshold levels in relation to essential characteristics and, when appropriate, for intended uses, to be fulfilled by construction products in the United Kingdom.

4. Where a recognised standardisation body has established classes of performance in a designated standard or a European standardisation body has established such classes in a harmonised standard which is a designated standard, a responsible TAB must use those classes in the UK Assessment Documents where they are relevant for the construction product.

When deemed appropriate, a responsible TAB may, with the agreement of the Secretary of State and after consulting such persons as it considers appropriate, establish in the UK Assessment Document classes of performance and threshold levels in relation to the essential characteristics of a construction product within its intended use as foreseen by the manufacturer.

5. The Secretary of State may make regulations, in accordance with Article 60, to establish conditions under which a construction product is to be deemed to satisfy a certain level or class of performance without testing or without further testing.

Where such conditions are not established by the Secretary of State, they may be established by a recognised standardisation body in a standard prepared under Article 18A, on the basis of a revised standardisation mandate.

6. When the Secretary of State has established classification systems in accordance with paragraph 1, any person may determine the levels or classes of performance to be respected by construction products in relation to their essential characteristics only in accordance with those classification systems.

7. A recognised standardisation body and a responsible TAB must respect the regulatory needs of the United Kingdom when determining threshold levels or classes of performance.”.

Amendments to Article 28

29.—(1) Article 28 (assessment and verification of constancy of performance) is amended as follows.

(2) In paragraph 2—

(a) in the first subparagraph—

(i) for “delegated acts” substitute “regulations”;

(ii) for “Commission shall” substitute “Secretary of State may”;

(iii) omit the final sentence.

(b) in the second subparagraph, for “Commission” substitute “Secretary of State”.

(3) In paragraph 3, for the words from “mandates for harmonised” to the end of the sentence substitute “standardisation mandates, standards prepared under Article 18A, and UK Assessment Documents.”.