

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 (Text with EEA relevance)

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) The rules of Member States require that construction works be designed and executed so as not to endanger the safety of persons, domestic animals or property nor damage the environment.
- (2) Those rules have a direct influence on the requirements of construction products. Those requirements are consequently reflected in national product standards, national technical approvals and other national technical specifications and provisions related to construction products. Due to their disparity, those requirements hinder trade within the Union.
- (3) This Regulation should not affect the right of Member States to specify the requirements they deem necessary to ensure the protection of health, the environment and workers when using construction products.
- (4) Member States have introduced provisions, including requirements, relating not only to safety of buildings and other construction works but also to health, durability, energy economy, protection of the environment, economic aspects, and other important aspects in the public interest. Laws, regulations, administrative measures or case-law, established either at Union or Member State level, concerning construction works may have an impact on the requirements of construction products. Since their effect on the functioning of the internal market is likely to be very similar, it is appropriate to consider such laws, regulations, administrative measures or case-law as ‘provisions’ for the purposes of this Regulation.

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- (5) Where applicable, provisions for an intended use or uses of a construction product in a Member State, aimed at fulfilling basic requirements for construction works, determine the essential characteristics the performance of which should be declared. In order to avoid an empty declaration of performance, at least one of the essential characteristics of a construction product which are relevant for the declared use or uses should be declared.
- (6) 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<sup>(3)</sup> aimed to remove technical barriers to trade in the field of construction products in order to enhance their free movement in the internal market.
- (7) In order to achieve that objective, Directive 89/106/EEC provided for the establishment of harmonised standards for construction products and provided for the granting of European technical approvals.
- (8) Directive 89/106/EEC should be replaced in order to simplify and clarify the existing framework, and improve the transparency and the effectiveness of the existing measures.
- (9) This Regulation should take account of the horizontal legal framework for the marketing of products in the internal market, established by Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products<sup>(4)</sup> as well as by Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products<sup>(5)</sup>.
- (10) The removal of technical barriers in the field of construction may only be achieved by the establishment of harmonised technical specifications for the purposes of assessing the performance of construction products.
- (11) Those harmonised technical specifications should include testing, calculation and other means, defined within harmonised standards and European Assessment Documents for assessing performance in relation to the essential characteristics of construction products.
- (12) The methods used by the Member States in their requirements for construction works, as well as other national rules relating to the essential characteristics of construction products, should be in accordance with harmonised technical specifications.
- (13) Where appropriate, classes of performance in relation to the essential characteristics of construction products should be encouraged to be used in harmonised standards, so as to take account of different levels of basic requirements for construction works for certain construction works as well as of the differences in climate, geology and geography and other different conditions prevailing in the Member States. On the basis of a revised mandate, the European standardisation bodies should be entitled to establish such classes in cases where the Commission has not already established them.

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- (14) Where an intended use requires threshold levels in relation to any essential characteristic to be fulfilled by construction products in Member States, those levels should be established in the harmonised technical specifications.
- (15) When assessing the performance of a construction product, account should also be taken of the health and safety aspects related to its use during its entire life cycle.
- (16) Threshold levels determined by the Commission pursuant to this Regulation should be generally recognised values for the essential characteristics of the construction product in question with regard to the provisions in Member States and should ensure a high level of protection within the meaning of Article 114 of the Treaty on the Functioning of the European Union (TFEU).
- (17) Threshold levels can be of a technical or regulatory nature, and may be applicable to a single characteristic or to a set of characteristics.
- (18) The European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) are recognised as the competent organisations for the adoption of harmonised standards in accordance with the general guidelines for cooperation between the Commission and those two organisations signed on 28 March 2003. Manufacturers should use those harmonised standards when the references to them have been published in the *Official Journal of the European Union* and in accordance with the criteria established under Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services<sup>(6)</sup>. Once a sufficient level of technical and scientific expertise on all the relevant aspects is attained, recourse to harmonised standards with regard to construction products should be increased, including, where appropriate, and after consultation of the Standing Committee on Construction, by requiring, by means of mandates, that those standards be developed on the basis of existing European Assessment Documents.
- (19) The procedures under Directive 89/106/EEC for assessing performance in relation to the essential characteristics of construction products not covered by a harmonised standard should be simplified in order to make them more transparent and to reduce costs to manufacturers of construction products.
- (20) In order to allow a manufacturer of a construction product to draw up a declaration of performance for a construction product which is not covered or not fully covered by a harmonised standard, it is necessary to provide for a European Technical Assessment.
- (21) Manufacturers of construction products should be allowed to request European Technical Assessments to be issued for their products on the basis of the guidelines for European technical approval established under Directive 89/106/EEC. The right to use those guidelines as European Assessment Documents should therefore be ensured.
- (22) The establishment of draft European Assessment Documents and the issuing of European Technical Assessments should be entrusted to Technical Assessment Bodies (hereinafter referred to as 'TABs') designated by Member States. In order to ensure that

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TABs have the necessary competence for carrying out those tasks, the requirements for their designation should be set out at Union level.

- (23) TABs should establish an organisation (hereinafter referred to as an ‘organisation of TABs’), supported, where applicable, through Union financing, to coordinate procedures for the establishment of draft European Assessment Documents and for the issuing of the European Technical Assessments, ensuring the transparency and the necessary confidentiality of those procedures.
- (24) Except in the cases laid down in this Regulation, the placing on the market of a construction product which is covered by a harmonised standard or for which a European Technical Assessment has been issued should be accompanied by a declaration of performance in relation to the essential characteristics of the construction product in accordance with the relevant harmonised technical specifications.
- (25) Where applicable, the declaration of performance should be accompanied by information on the content of hazardous substances in the construction product in order to improve the possibilities for sustainable construction and to facilitate the development of environment-friendly products. Such information should be provided without prejudice to the obligations, particularly with regard to labelling, laid down in other instruments of Union law applicable to hazardous substances and should be made available at the same time and in the same form as the declaration of performance so as to reach all potential users of construction products. Information on the content of hazardous substances should initially be limited to substances referred to in Articles 31 and 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency<sup>(7)</sup>. However, the specific need for information on the content of hazardous substances in construction products should be further investigated with a view to completing the range of substances covered so as to ensure a high level of protection of the health and safety of workers using construction products and of users of construction works, including with regard to recycling and/or reuse requirements of parts or materials. This Regulation is without prejudice to Member States’ rights and obligations pursuant to other instruments of Union law that may apply to hazardous substances, in particular, Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market<sup>(8)</sup>, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy<sup>(9)</sup>, Regulation (EC) No 1907/2006, Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste<sup>(10)</sup> and Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures<sup>(11)</sup>.
- (26) It should be possible for the declaration of performance to be numbered in accordance with the product-type reference number.

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- (27) It is necessary to provide for simplified procedures for the drawing up of declarations of performance in order to alleviate the financial burden of enterprises, in particular small and medium-sized enterprises (SMEs).
- (28) In order to ensure that the declaration of performance is accurate and reliable, the performance of the construction product should be assessed and the production in the factory should be controlled in accordance with an appropriate system of assessment and verification of constancy of performance of the construction product. Several systems could be chosen to be applied for a given construction product, in order to take into account the specific relationship of some of its essential characteristics to the basic requirements for construction works.
- (29) Given the specificity of construction products and the particular focus of the system for their assessment, the procedures for the conformity assessment provided for in Decision No 768/2008/EC, and the modules set out therein, are not appropriate. Specific methods should therefore be established for the assessment and verification of constancy of performance in relation to the essential characteristics of construction products.
- (30) Due to the difference in the meaning of the CE marking for construction products, when compared to the general principles set out in Regulation (EC) No 765/2008, specific provisions should be put in place to ensure the clarity of the obligation to affix the CE marking to construction products and the consequences thereof.
- (31) By affixing the CE marking or having such marking affixed to a construction product, manufacturers should indicate that they take responsibility for the conformity of that product with its declared performance.
- (32) The CE marking should be affixed to all construction products for which the manufacturer has drawn up a declaration of performance in accordance with this Regulation. If a declaration of performance has not been drawn up, the CE marking should not be affixed.
- (33) The CE marking should be the only marking of conformity of the construction product with the declared performance and compliance with applicable requirements relating to Union harmonisation legislation. However, other markings may be used, provided that they help to improve the protection of users of construction products and are not covered by existing Union harmonisation legislation.
- (34) To avoid the unnecessary testing of construction products for which performance has already been sufficiently demonstrated by stable test results or other existing data, the manufacturer should be allowed, under conditions set up in the harmonised technical specifications or in a Commission decision, to declare a certain level or class of performance without testing or without further testing.
- (35) To avoid duplicating tests already carried out, a manufacturer of a construction product should be allowed to use the test results obtained by a third party.
- (36) Conditions should be defined for the use of simplified procedures for the assessment of the performance of construction products, in order to reduce as far as possible the cost of placing them on the market, without reducing the level of safety. The manufacturers

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using such simplified procedures should demonstrate appropriately the fulfilment of those conditions.

- (37) In order to enhance the impact of market surveillance measures, all simplified procedures provided for in this Regulation for the assessment of the performance of construction products should apply only to natural or legal persons which manufacture the products they place on the market.
- (38) To further decrease the cost to micro-enterprises of placing construction products, which they have manufactured, on the market, it is necessary to provide for simplified procedures for the assessment of performance when the products in question do not imply significant safety concerns while complying with the applicable requirements, whatever the origin of those requirements. Enterprises applying those simplified procedures should, in addition, demonstrate that they qualify as micro-enterprises. Moreover, they should follow the applicable procedures for verification of constancy of performance provided for in the harmonised technical specifications for their products.
- (39) For an individually designed and manufactured construction product, the manufacturer should be allowed to use simplified procedures for the assessment of performance, where it can be demonstrated that the product placed on the market complies with the applicable requirements.
- (40) The interpretative framework for the definition of ‘non-series process’, to be applied to different construction products covered by this Regulation, should be established by the Commission in consultation with the Standing Committee on Construction.
- (41) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they place or make available on the market only construction products which are in compliance with the requirements of this Regulation, which aim to ensure the performance of construction products and fulfil basic requirements for construction works. In particular, importers and distributors of construction products should be aware of the essential characteristics for which there are provisions on the Union market, and of the specific requirements in Member States in relation to the basic requirements for construction works, and should use this knowledge in their commercial transactions.
- (42) It is important to ensure the accessibility of national technical rules so that enterprises, and in particular SMEs, can gather reliable and precise information about the law in force in the Member State where they intend to place or make available on the market their products. Member States should therefore designate Product Contact Points for Construction for this purpose. In addition to the tasks defined in Article 10(1) of Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State<sup>(12)</sup>, Product Contact Points for Construction should also provide information on rules applicable to the incorporation, assembling or installation of a specific type of construction product.
- (43) In order to facilitate the free movement of goods, Product Contact Points for Construction should provide, free of charge, information about provisions aimed at

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fulfilling basic requirements for construction works applicable to the intended use of each construction product in the territory of each Member State. Product Contact Points for Construction may also provide economic operators with additional information or observations. For additional information, Product Contact Points for Construction should be allowed to charge fees that are proportionate to the costs of providing such information or observations. Member States should furthermore ensure that sufficient resources are allocated to the Product Contact Points for Construction.

- (44) Since the creation of Product Contact Points for Construction should not interfere with the allocation of functions among competent authorities within the regulatory systems of the Member States, it should be possible for Member States to set up Product Contact Points for Construction in accordance with regional or local competences. Member States should be able to entrust the role of Product Contact Points for Construction to existing contact points established in accordance with other Union instruments, in order to prevent the unnecessary proliferation of contact points and to simplify administrative procedures. In order not to increase administrative costs for enterprises and competent authorities, Member States should also be able to entrust the role of Product Contact Points for Construction not only to existing services within the public administration, but also to national SOLVIT centres, chambers of commerce, professional organisations and private bodies.
- (45) The Product Contact Points for Construction should be able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking.
- (46) For the purposes of ensuring an equivalent and consistent enforcement of Union harmonisation legislation, effective market surveillance should be operated by the Member States. Regulation (EC) No 765/2008 provides the basic conditions for the functioning of such market surveillance, notably for programmes, financing and penalties.
- (47) The responsibility of Member States for safety, health and other matters covered by the basic requirements for construction works on their territory should be recognised in a safeguard clause providing for appropriate protective measures.
- (48) Since it is necessary to ensure throughout the Union a uniform level of performance of bodies carrying out the assessment and verification of constancy of performance of construction products, and since all such bodies should perform their functions to the same level and under conditions of fair competition, requirements should be set for those bodies seeking to be notified for the purposes of this Regulation. Provision should also be made for the availability of adequate information about such bodies and for their monitoring.
- (49) In order to ensure a coherent level of quality in the assessment and verification of constancy of performance of construction products, it is also necessary to establish requirements applicable to the authorities responsible for notifying the bodies carrying out those tasks to the Commission and the other Member States.

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- (50) In accordance with Article 291 TFEU, rules and general principles for the control by Member States of the Commission's exercise of implementing powers are to be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(13)</sup> continues to apply, with the exception of the regulatory procedure with scrutiny, which is no longer applicable.
- (51) For the purposes of achieving the objectives of this Regulation, the Commission should be empowered to adopt certain delegated acts in accordance with Article 290 TFEU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (52) In particular, the Commission should be empowered to adopt delegated acts outlining the conditions for the use of websites to make available the declaration of performance.
- (53) Since a period of time is required to ensure that the framework for the proper functioning of this Regulation is in place, its application should be deferred with the exception of the provisions concerning the designation of TABs, notifying authorities and notified bodies, the establishment of an organisation of TABs and the establishment of the Standing Committee on Construction.
- (54) The Commission and the Member States should, in collaboration with stakeholders, launch information campaigns to inform the construction sector, particularly economic operators and users of construction products, of the establishment of a common technical language, the distribution of responsibilities between individual economic operators and users, the affixing of the CE marking on construction products, the revision of the basic requirements for construction works and the systems of assessment and verification of constancy of performance.
- (55) The basic requirement for construction works on sustainable use of natural resources should notably take into account the recyclability of construction works, their materials and parts after demolition, the durability of construction works and the use of environmentally compatible raw and secondary materials in construction works.
- (56) For the assessment of the sustainable use of resources and of the impact of construction works on the environment Environmental Product Declarations should be used when available.
- (57) Wherever possible, uniform European methods should be laid down for establishing compliance with the basic requirements set out in Annex I.
- (58) Since the objective of this Regulation, namely to achieve the proper functioning of the internal market for construction products by means of harmonised technical specifications to express the performance of construction products, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European



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Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

**Modifications etc. (not altering text)**

- C1** Regulation modified (as it applies in the U.K. in respect of N.I.) (31.12.2020 immediately before S.I. 2019/465 comes into force) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1359\)](#), regs. 1, **4(2)**

CHAPTER I

GENERAL PROVISIONS

*Article 1*

**Subject matter**

This Regulation lays down conditions for the placing or making available on the market of construction products by establishing harmonised rules on how to express the performance of construction products in relation to their essential characteristics and on the <sup>F1</sup>use of UK marking, and in certain cases CE marking or CE marking accompanied by the UK(NI) indication,] on those products.

**Textual Amendments**

- F1** Words in [Art. 1](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 2** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 paras. 4, 17](#)); 2020 c. 1, **Sch. 5 para. 1(1)**

*Article 2*

**Definitions**

For the purposes of this Regulation the following definitions shall apply:

1. ‘construction product’ means any product or kit which is produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works;
2. ‘kit’ means a construction product placed on the market by a single manufacturer as a set of at least two separate components that need to be put together to be incorporated in the construction works;
3. ‘construction works’ means buildings and civil engineering works;
4. ‘essential characteristics’ means those characteristics of the construction product which relate to the basic requirements for construction works;

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5. ‘performance of a construction product’ means the performance related to the relevant essential characteristics, expressed by level or class, or in a description;
6. ‘level’ means the result of the assessment of the performance of a construction product in relation to its essential characteristics, expressed as a numerical value;
7. ‘class’ means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product;
8. ‘threshold level’ means a minimum or maximum performance level of an essential characteristic of a construction product;
9. ‘product-type’ means the set of representative performance levels or classes of a construction product, in relation to its essential characteristics, produced using a given combination of raw materials or other elements in a specific production process;
- 9A. [<sup>F2</sup>‘relevant enactment’ means any retained EU law which is derived from an EU instrument issued before IP completion day harmonising the conditions for the marketing of products in the EU;]
- 9B. [<sup>F2</sup>‘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 as it has effect in EU law as amended from time to time;]
10. ‘harmonised technical specifications’ means [<sup>F3</sup>designated] standards and [<sup>F4</sup>UK] Assessment Documents;
- 10A. [<sup>F5</sup>‘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;]
11. [<sup>F6</sup>‘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, 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 as it has effect in EU law as amended from time to time;]
12. <sup>F7</sup> .....
13. <sup>F7</sup> .....

- 13A. [F8‘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 IP completion day; and
    - (ii) the reference was not removed from publication before IP completion 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 which, immediately before IP completion day, could be used for the purposes of issuing European Technical Assessments under this Regulation;]
14. ‘intended use’ means the intended use of the construction product as defined in the applicable harmonised technical specification;
15. ‘Specific Technical Documentation’ means documentation demonstrating that methods within the applicable system for assessment and verification of constancy of performance have been replaced by other methods, provided that the results obtained by those other methods are equivalent to the results obtained by the test methods of the corresponding [F9designated] standard;
16. ‘making available on the market’ means any supply of a construction product for distribution or use on the [F10market of Great Britain] market in the course of a commercial activity, whether in return for payment or free of charge;
17. ‘placing on the market’ means the first making available of a construction product on the [F11market of Great Britain] market;
- 17A. [F12‘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;

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- 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 as it has effect in EU law as amended from time to time;
- 17CA. ‘CE marking accompanied by the UK(NI) indication’ means CE marking (as defined above) accompanied by the marking in the form set out in Schedule 1 to the Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020.
- 17D. ‘competent authority’ has the meaning prescribed by the Construction Products Regulations 2013;]
18. ‘economic operator’ means the manufacturer, importer, distributor or authorised representative;
19. ‘manufacturer’ means any natural or legal person who manufactures a construction product or who has such a product designed or manufactured, and markets that product under his name or trademark;
20. ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a construction product available on the market;
21. [F13: ‘importer’ means any natural or legal person who—
- (a) is established within the United Kingdom and places a construction product from a country outside of the United Kingdom on the market; or
  - (b) is established in Northern Ireland and places a construction product on the market that has been supplied to them for distribution, consumption or use in the course of a commercial activity, whether in return for payment or free of charge, from an EEA state.]
22. [F14: ‘authorised representative’ means—
- (a) a person who—
    - (i) immediately before IP completion 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 IP completion day; and
    - (ii) on or after IP completion 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 IP completion 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—

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- (a) which the Secretary of State had before IP completion day notified to the European Commission and the member States, in accordance with Article 39 as it had effect immediately before IP completion day; and
- (b) in respect of which no objections had been raised, in accordance with Article 48(5) as it had effect immediately before IP completion day;
- 22C. ‘market surveillance authority’ has the meaning prescribed by the Construction Products Regulations 2013;]
23. ‘withdrawal’ means any measure aimed at preventing a construction product in the supply chain from being made available on the market;
24. ‘recall’ means any measure aimed at achieving the return of a construction product that has already been made available to the end-user;
25. ‘accreditation’ has the meaning assigned to it by [<sup>F15</sup>RAMS];
- 25A. [<sup>F16</sup>‘UK national accreditation body’ means the body appointed by the Secretary of State in accordance with Article 4 of RAMS;]
26. ‘factory production control’ means the documented, permanent and internal control of production in a factory, in accordance with the relevant harmonised technical specifications;
27. ‘micro-enterprise’ means a micro-enterprise as defined in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>(14)</sup>;
28. ‘life cycle’ means the consecutive and interlinked stages of a construction product’s life, from raw material acquisition or generation from natural resources to final disposal.

#### Textual Amendments

- F2** Art. 2(9A)(9B) inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 3(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in Art. 2(10) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 3(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in Art. 2(10) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 3(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 2(10A)-(10D) inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 3(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Art. 2(11)(11A) substituted for Art. 2(11) (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 3(5)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Art. 2(12)(13) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 3(6)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

- F8** Art. 2(13A)-(13F) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(7)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Word in Art. 2(15) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(8)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 2(16) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(9)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 5(a), 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F11** Words in Art. 2(17) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(9)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 5(a), 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F12** Art. 2(17A)-(17D) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(10)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 5(b), 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F13** Art. 2(21) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(11)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 5(c), 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F14** Art. 2(22)-(22C) substituted for Art. 2(22) (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(12)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Word in Art. 2(25) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(13)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Art. 2(25A) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 3(14)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 3

#### Basic requirements for construction works and essential characteristics of construction products

1 The basic requirements for construction works set out in Annex I shall constitute the basis for the preparation of standardisation mandates [<sup>F17</sup>, standards under Article 18A, and UK Assessment Documents].

2 The essential characteristics of construction products shall be laid down in harmonised technical specifications in relation to the basic requirements for construction works.

3 For specific families of construction products covered by a [<sup>F18</sup>designated] standard, the [<sup>F19</sup>Secretary of State may,] in relation to their intended uses as defined in [<sup>F18</sup>designated] standards, determine by [<sup>F20</sup>regulations] in accordance with Article 60, those essential characteristics for which the manufacturer shall declare the performance of the product when it is placed on the market.

[<sup>F21</sup>The Secretary of State may] also determine, by [<sup>F22</sup>regulations] in accordance with Article 60, the threshold levels for the performance in relation to the essential characteristics to be declared.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

- F17** Words in Art. 3(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 4(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Word in Art. 3(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 4(3)(a)(i)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in Art. 3(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 4(3)(a)(ii)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in Art. 3(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 4(3)(a)(iii)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 3(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 4(3)(b)(i)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Word in Art. 3(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 4(3)(b)(ii)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER II

### DECLARATION OF PERFORMANCE AND [F23UK] MARKING

#### Article 4

#### Declaration of performance

1 When a construction product is covered by a [F24designated] standard or conforms to a [F25UK] Technical Assessment which has been issued for it, the manufacturer shall draw up a declaration of performance when such a product is placed on the market.

2 When a construction product is covered by a [F26designated] standard or conforms to a [F27UK] Technical Assessment which has been issued for it, information in any form about its performance in relation to the essential characteristics, as defined in the applicable harmonised technical specification, may be provided only if included and specified in the declaration of performance except where, in accordance with Article 5, no declaration of performance has been drawn up.

3 By drawing up the declaration of performance, the manufacturer shall assume responsibility for the conformity of the construction product with such declared performance. In the absence of objective indications to the contrary, [F28... the declaration of performance drawn up by the manufacturer [F29shall be presumed] to be accurate and reliable.

### Textual Amendments

- F24** Word in Art. 4(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 6(2)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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- F25** Word in Art. 4(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 6(2)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Word in Art. 4(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 6(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Word in Art. 4(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 6(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in Art. 4(3) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 6(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in Art. 4(3) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 6(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 5

#### Derogations from drawing up a declaration of performance

By way of derogation from Article 4(1) and in the absence of [<sup>F30</sup>any enactment or rule of law in the United Kingdom in respect of Great Britain] requiring the declaration of essential characteristics where the construction products are intended to be used, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a [<sup>F31</sup>designated] standard on the market where:

- (a) the construction product is individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work, by a manufacturer who is responsible for the safe incorporation of the product into the construction works, in compliance with the applicable [<sup>F32</sup>enactment or rule of law in the United Kingdom in respect of Great Britain] and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable [<sup>F32</sup>enactment or rule of law in the United Kingdom in respect of Great Britain];
- (b) the construction product is manufactured on the construction site for its incorporation in the respective construction works in compliance with the applicable [<sup>F33</sup>enactment or rule of law in the United Kingdom in respect of Great Britain] and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable [<sup>F33</sup>enactment or rule of law in the United Kingdom in respect of Great Britain]; or
- (c) the construction product is manufactured in a traditional manner or in a manner appropriate to heritage conservation and in a non-industrial process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable [<sup>F34</sup>enactment or rule of law in the United Kingdom in respect of Great Britain].



**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

- F30** Words in Art. 5 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 7(2)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 6, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F31** Word in Art. 5 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 7(2)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in Art. 5(a) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 7(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 6, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F33** Words in Art. 5(b) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 7(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 6, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F34** Words in Art. 5(c) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 7(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 6, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

## Article 6

### Content of the declaration of performance

- 1 The declaration of performance shall express the performance of construction products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications.
- 2 The declaration of performance shall contain, in particular, the following information:
  - a the reference of the product-type for which the declaration of performance has been drawn up;
  - b the system or systems of assessment and verification of constancy of performance of the construction product, as set out in Annex V;
  - c the reference number and date of issue of the [<sup>F35</sup>designated] standard or the [<sup>F36</sup>UK] Technical Assessment which has been used for the assessment of each essential characteristic;
  - d where applicable, the reference number of the Specific Technical Documentation used and the requirements with which the manufacturer claims the product complies.
- 3 The declaration of performance shall in addition contain:
  - a the intended use or uses for the construction product, in accordance with the applicable harmonised technical specification;
  - b the list of essential characteristics, as determined in the harmonised technical specification for the declared intended use or uses;
  - c the performance of at least one of the essential characteristics of the construction product, relevant for the declared intended use or uses;
  - d where applicable, the performance of the construction product, by levels or classes, or in a description, if necessary based on a calculation in relation to its essential characteristics determined in accordance with Article 3(3);
  - e the performance of those essential characteristics of the construction product which are related to the intended use or uses, taking into consideration the provisions in relation

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

- to the intended use or uses where the manufacturer intends the product to be made available on the market;
- f for the listed essential characteristics for which no performance is declared, the letters ‘NPD’ (No Performance Determined);
- g when a [<sup>F37</sup>UK] Technical Assessment has been issued for that product, the performance, by levels or classes, or in a description, of the construction product in relation to all essential characteristics contained in the corresponding [<sup>F38</sup>UK Assessment Document].
- 4 The declaration of performance shall be drawn up using the model set out in Annex III.
- 5 The information referred to in Article 31 or, as the case may be, in Article 33 of Regulation (EC) No 1907/2006 [<sup>F39</sup>as amended from time to time], shall be provided together with the declaration of performance.

#### Textual Amendments

- F35** Word in Art. 6(2)(c) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 8(2)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F36** Word in Art. 6(2)(c) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 8(2)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Word in Art. 6(3)(g) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 8(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F38** Words in Art. 6(3)(g) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 8(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F39** Words in Art. 6(5) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 8(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 7

#### Supply of the declaration of performance

1 A copy of the declaration of performance of each product which is made available on the market shall be supplied either in paper form or by electronic means.

However, where a batch of the same product is supplied to a single user, it may be accompanied by a single copy of the declaration of performance either in paper form or by electronic means.

2 A paper copy of the declaration of performance shall be supplied if the recipient requests it.

3 By way of derogation from paragraphs 1 and 2, the copy of the declaration of performance may be made available on a web site in accordance with conditions to be established by the [<sup>F40</sup>Secretary of State] by [<sup>F41</sup>regulations] in accordance with Article 60. Such conditions shall, inter alia, guarantee that the declaration of performance remains available at least for the period referred to in Article 11(2).

4 The declaration of performance shall be supplied in [<sup>F42</sup>English].

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

- F40** Words in Art. 7(3) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 9(2)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F41** Word in Art. 7(3) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 9(2)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F42** Word in Art. 7(4) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 9(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## <sup>F43</sup> Article 8

### Use of UK marking

1 The UK marking must be affixed to those construction products for which the manufacturer has drawn up a declaration of performance in accordance with Articles 4 and 6. The UK marking must be affixed only by the manufacturer or the manufacturer's authorised representative.

2 If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 4 and 6, the UK marking must not be affixed.

3 By affixing or having affixed the UK marking, manufacturers indicate that they take responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements laid down in this Regulation and in other enactments providing for its affixing.

4 The rules for affixing the UK marking provided for in other enactments (including in Article 30 of RAMS) apply without prejudice to this Article.

5 A public authority within the meaning of section 6 of the Human Rights Act 1998 may not impose rules or conditions impeding the use of a construction product bearing the UK marking, or the CE marking (or CE marking accompanied by the UK(NI) indication) where Article 16A(2)(a) applies, when the declared performances correspond to the requirements for such use in Great Britain.]

### Textual Amendments

- F43** Art. 8 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 10** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 7, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

## Article 9

### Rules and conditions for the affixing of [<sup>F44</sup>UK] marking

1 The [<sup>F44</sup>UK] marking shall be affixed visibly, legibly and indelibly to the construction product or to a label attached to it. Where this is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging or to the accompanying documents.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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2 The [F<sup>44</sup>UK] marking shall be followed by the two last digits of the year in which it was first affixed, the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity, the unique identification code of the product-type, the reference number of the declaration of performance, the level or class of the performance declared, the reference to the harmonised technical specification applied, the identification number of the [F<sup>45</sup>approved] body, if applicable, and the intended use as laid down in the harmonised technical specification applied.

3 The [F<sup>44</sup>UK] marking shall be affixed before the construction product is placed on the market. It may be followed by a pictogram or any other mark notably indicating a special risk or use.

#### Textual Amendments

- F44** Word in Art. 9 substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 11(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F45** Word in Art. 9(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 11(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### F<sup>46</sup>Article 10

#### Product Contact Points for Construction

#### Textual Amendments

- F46** Art. 10 omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 12** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Textual Amendments

- F23** Word in Ch. 2 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 5** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER III

**OBLIGATIONS OF ECONOMIC OPERATORS***Article 11***Obligations of manufacturers**

1 Manufacturers shall draw up a declaration of performance in accordance with Articles 4 and 6, and affix the [F47UK] marking in accordance with Articles 8 and 9.

Manufacturers shall, as the basis for the declaration of performance, draw up technical documentation describing all the relevant elements related to the required system of assessment and verification of constancy of performance.

2 Manufacturers shall keep the technical documentation and the declaration of performance for a period of 10 years after the construction product has been placed on the market.

Where appropriate, the [F48Secretary of State] may, by [F49regulations] in accordance with Article 60, amend that period for families of construction products on the basis of the expected life or part played by the construction product in the construction works.

3 Manufacturers shall ensure that procedures are in place to ensure that series production maintains the declared performance. Changes in the product-type and in the applicable harmonised technical specifications shall be adequately taken into account.

Manufacturers shall, where deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance of a construction product, carry out sample testing of construction products placed or made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and of product recalls, and keep distributors informed of any such monitoring.

4 Manufacturers shall ensure that their construction products bear a type, batch or serial number or any other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the construction product.

5 Manufacturers shall indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying it, their name, registered trade name or registered trade mark and their contact address. The address shall indicate a single point at which the manufacturer can be contacted.

6 When making a construction product available on the market, manufacturers shall ensure that the product is accompanied by instructions and safety information in [F50English].

7 Manufacturers who consider or have reason to believe that a construction product which they have placed on the market is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, shall immediately take the necessary corrective measures to bring that construction product into conformity, or, if appropriate, to withdraw or recall it. Furthermore, where the product presents a risk, manufacturers shall immediately inform [F51a competent authority] to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

8 Manufacturers shall, further to a reasoned request from a competent F52... authority, provide it with all the information and documentation necessary to demonstrate the conformity

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of the construction product with the declaration of performance and compliance with other applicable requirements in this Regulation, in [<sup>F53</sup>English]. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by construction products which they have placed on the market.

#### Textual Amendments

- F47** Word in Art. 11(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F48** Words in Art. 11(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F49** Word in Art. 11(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F50** Word in Art. 11(6) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F51** Words in Art. 11(7) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(5)** (with Sch. 1 paras. 70, 72) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F52** Word in Art. 11(8) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(6)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F53** Word in Art. 11(8) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 13(6)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 12

### Authorised representatives

1 A manufacturer may appoint, by written mandate, an authorised representative.

The drawing up of technical documentation shall not form part of the authorised representative's mandate [<sup>F54</sup>established in the United Kingdom].

2 An authorised representative shall perform the tasks specified in the mandate. The mandate shall allow the authorised representative to carry out at least the following tasks:

- a keep the declaration of performance and the technical documentation at the disposal of [<sup>F55</sup>market] surveillance authorities for the period referred to in Article 11(2);
- b further to a reasoned request from a competent <sup>F56</sup>... authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other applicable requirements in this Regulation;
- c cooperate with [<sup>F57</sup>a competent authority, at its] request, on any action taken to eliminate the risks posed by construction products covered by the mandate of the authorised representative.

### Textual Amendments

- F54** Words in Art. 12(1) inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 14(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F55** Word in Art. 12(2)(a) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 14(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F56** Word in Art. 12(2)(b) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 14(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F57** Words in Art. 12(2)(c) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 14(3)(c)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 13

### Obligations of importers

1 Importers shall place on the [<sup>F58</sup>market of Great Britain] only construction products which are compliant with the applicable requirements of this Regulation.

2 Before placing a construction product on the market, importers shall ensure that the assessment and the verification of constancy of performance has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation referred to in the second subparagraph of Article 11(1) and the declaration of performance in accordance with Articles 4 and 6. They shall also ensure that the product, where required, bears the [<sup>F59</sup>UK] marking, that the product is accompanied by the required documents and that the manufacturer has complied with the requirements set out in Article 11(4) and (5).

Where an importer considers or has reason to believe that the construction product is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, the importer shall not place the construction product on the market until it conforms to the accompanying declaration of performance and it complies with the other applicable requirements in this Regulation or until the declaration of performance is corrected. Furthermore, where the construction product presents a risk, the importer shall inform the manufacturer and the market surveillance authorities thereof.

3 Importers shall indicate on the construction product or, where that is not possible, on its packaging or in a document accompanying the product their name, registered trade name or registered trade mark and their contact address.

4 Importers shall ensure that, when making a construction product available on the market, the product is accompanied by instructions and safety information in [<sup>F60</sup>English].

5 Importers shall ensure that, while a construction product is under their responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Regulation.

6 Importers shall, when deemed appropriate with regard to ensuring the accuracy, reliability and stability of the declared performance of a construction product, carry out sample testing of construction products placed or made available on the market, investigate, and, if

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necessary, keep a register of complaints, of non-conforming products and of product recalls, and shall keep distributors informed of any such monitoring.

7 Importers who consider or have reason to believe that a construction product which they have placed on the market is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, shall immediately take the necessary corrective measures to bring that construction product into conformity, or, where appropriate, to withdraw or recall it. Furthermore, where the product presents a risk, importers shall immediately inform [<sup>F61</sup>a competent authority] thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.

8 Importers shall, for the period referred to in Article 11(2), keep a copy of the declaration of performance at the disposal of the market surveillance authorities and ensure that the technical documentation is made available to those authorities, upon request.

9 Importers shall, further to a reasoned request from a competent <sup>F62</sup>... authority, provide it with all the information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other applicable requirements in this Regulation, in [<sup>F63</sup>English]. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by construction products which they have placed on the market.

#### Textual Amendments

- F58** Words in Art. 13(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 15(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 8, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F59** Word in Art. 13(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 15(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F60** Word in Art. 13(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 15(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F61** Words in Art. 13(7) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 15(5)** (with Sch. 1 paras. 70, 72) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F62** Word in Art. 13(9) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 15(6)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F63** Word in Art. 13(9) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 15(6)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 14

#### Obligations of distributors

1 When making a construction product available on the market, distributors shall act with due care in relation to the requirements of this Regulation.

2 Before making a construction product available on the market distributors shall ensure that the product, where required, bears the [<sup>F64</sup>UK] marking and is accompanied by the documents required under this Regulation and by instructions and safety information in



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[<sup>F65</sup>English.] Distributors shall also ensure that the manufacturer and the importer have complied with the requirements set out in Article 11(4) and (5) and Article 13(3) respectively.

Where a distributor considers or has reason to believe that a construction product is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, the distributor shall not make the product available on the market until it conforms to the accompanying declaration of performance and it complies with the other applicable requirements in this Regulation or until the declaration of performance is corrected. Furthermore, where the product presents a risk, the distributor shall inform the manufacturer or the importer thereof, and the market surveillance authorities.

3 A distributor shall ensure that, while a construction product is under his responsibility, storage or transport conditions do not jeopardise its conformity with the declaration of performance and compliance with other applicable requirements in this Regulation.

4 Distributors who consider or have reason to believe that a construction product which they have made available on the market is not in conformity with the declaration of performance or not in compliance with other applicable requirements in this Regulation, shall make sure that the corrective measures necessary to bring that product in conformity, to withdraw it or recall it, as appropriate, are taken. Furthermore, where the product presents a risk, distributors shall immediately inform [<sup>F66</sup>a competent authority] thereof, giving details, in particular, of the non-compliance and of any corrective measures taken.

5 Distributors shall, further to a reasoned request from a competent <sup>F67</sup>... authority, provide it with all the information and documentation necessary to demonstrate the conformity of the construction product with the declaration of performance and compliance with other applicable requirements in this Regulation in [<sup>F68</sup>English.] They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by construction products which they have made available on the market.

#### Textual Amendments

- F64** Word in Art. 14(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 16(2)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F65** Word in Art. 14(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 16(2)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F66** Words in Art. 14(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 16(3)** (with Sch. 1 paras. 70, 72) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F67** Word in Art. 14(5) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 16(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F68** Word in Art. 14(5) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 16(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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### Article 15

#### Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of a manufacturer pursuant to Article 11, where he places a product on the market under his name or trademark or modifies a construction product already placed on the market in such a way that conformity with the declaration of performance may be affected.

### Article 16

#### Identification of economic operators

For the period referred to in Article 11(2), economic operators shall, on request, identify the following to market surveillance authorities:

- (a) any economic operator who has supplied them with a product;
- (b) any economic operator to whom they have supplied a product.

### <sup>F69</sup>Article 16A

#### Obligations on a manufacturer which are met by complying with obligations in the EU Construction Products Regulation

- 1 Paragraph 2 applies where:
  - a a construction product is covered by a standard which:
    - i) is designated under Article 18B(1)(b); or
    - ii) becomes a designated standard under Article 18B(2); and
  - b before the product is placed on the market, the manufacturer:
    - i) carries out the assessment and the verification of constancy of performance required by the EU Construction Products Regulation;
    - ii) complies with Chapter 6 of the EU Construction Products Regulation in relation to the use, if any, of simplified procedures;
    - iii) draws up a declaration of performance for the product in accordance with Articles 4 and 6 of the EU Construction Products Regulation;
    - iv) provides the information referred to in Article 6(4) of the EU Construction Products Regulation with the declaration of performance;
    - v) draws up the technical documentation referred to in Article 11(1) of the EU Construction Products Regulation; and
    - vi) affixes or has affixed a CE marking in accordance with Articles 8 and 9 of the EU Construction Products Regulation or, in the case of a product to which regulation 4(2)(b) of the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 applies, a CE marking accompanied by the UK(NI) indication in accordance with Articles 8 and 9 of the EU Construction Products Regulation.
- 2 Where this paragraph applies:

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- a the requirements on the manufacturer in the following provisions are to be treated as satisfied:
    - i) Article 4(1);
    - ii) Article 6;
    - iii) Article 8(1);
    - iv) Article 9;
    - v) Article 11(1);
    - vi) Article 28(1);
  - b Article 8(3) has effect as if there were substituted:
- 3 By affixing or having affixed the CE marking or CE marking accompanied by the UK(NI) indication, manufacturers indicate that they take responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements laid down in this Regulation and in other enactments allowing for the affixing of the CE marking or CE marking accompanied by the UK(NI) indication in satisfaction of a requirement to affix the UK marking.;
- c the following provisions have effect subject to the modifications in paragraph 3:
    - i) Article 4(2) and (3);
    - ii) Article 7;
    - iii) Article 11(2) to (8);
    - iv) Article 12;
    - v) Article 15;
  - d Chapter 6 and Article 59 do not apply.
- 3 The modifications are that:
- a any reference to technical documentation is to be read as a reference to the technical documentation referred to in the second subparagraph of Article 11(1) of the EU Construction Products Regulation;
  - b any reference to a declaration of performance is to be read as a reference to the declaration of performance drawn up by the manufacturer in accordance with Articles 4 and 6 of the EU Construction Products Regulation;
  - c any reference to the UK marking is to be read as a reference to the CE marking or, as the case may be, CE marking accompanied by the UK(NI) indication.]

#### Textual Amendments

**F69** Arts. 16A-16C inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 17** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 9, **17**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### <sup>F69</sup>Article 16B

#### **Obligations on an importer which are met by complying with obligations in the EU Construction Products Regulation**

- 1 Paragraph 2 applies where:
  - a a construction product is covered by a standard which:
    - i) is designated under Article 18B(1)(b); or
    - ii) becomes a designated standard under Article 18B(2); and

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- b before placing the product on the market, an importer:
    - i) finds that the product does not bear the UK marking;
    - ii) ensures that the manufacturer has:
      - aa) carried out the assessment and the verification of constancy of performance required by the EU Construction Products Regulation;
      - bb) drawn up the technical documentation referred to in the second subparagraph of Article 11(1) of the EU Construction Products Regulation;
      - cc) drawn up the declaration of performance in accordance with Articles 4 and 6 of the EU Construction Products Regulation; and
      - dd) complied with Article 11(4) and (5) of this Regulation; and
    - iii) ensures that the product bears the CE marking, or in the case of a product to which regulation 4(2)(b) of the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 applies, the CE marking accompanied by the UK(NI) indication;
    - iv) ensures that the product is accompanied by the ‘required documents’ referred to in Article 13(2) of the EU Construction Products Regulation.
- 2 Where this paragraph applies:
- a the requirements on the importer in the first subparagraph of Article 13(2) are to be treated as satisfied;
  - b the following provisions of Article 13 have effect subject to the modifications in paragraph 3:
    - i) the second subparagraph of paragraph 2;
    - ii) paragraph 5;
    - iii) paragraphs 7 to 9.
- 3 The modifications are that:
- a any reference to a declaration of performance is to be read as a reference to the declaration of performance drawn up by the manufacturer in accordance with Articles 4 and 6 of the EU Construction Products Regulation;
  - b any reference to technical documentation is to be read as a reference to the technical documentation referred to in the second subparagraph of Article 11(1) of the EU Construction Products Regulation.]

#### Textual Amendments

**F69** Arts. 16A-16C inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 17** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 9, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

#### *F69* Article 16C

#### **Obligations on a distributor which are met by complying with obligations in the EU Construction Products Regulation**

- 1 Paragraph 2 applies where:
  - a a construction product is covered by a standard which:
    - i) is designated under Article 18B(1)(b); or

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- ii) becomes a designated standard under Article 18B(2); and
- b before making the product available on the market, a distributor:
  - i) finds that the product does not bear the UK marking; and
  - ii) ensures that:
    - aa) the product bears the CE marking, or in the case of a product to which regulation 4(2)(b) of the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 applies, the CE marking accompanied by the UK(NI) indication;
    - bb) the product is accompanied by the ‘documents required’ referred to in Article 14(2) of the EU Construction Products Regulation and by instructions and safety information in English;
    - cc) the manufacturer has complied with Article 11(4) and (5) of this Regulation; and
    - dd) the importer has complied with Article 13(3) of this Regulation.
- 2 Where this paragraph applies:
  - a the requirements on the distributor in the first subparagraph of Article 14(2) are to be treated as satisfied;
  - b Article 14 has effect as if any reference to a declaration of performance were a reference to the declaration of performance drawn up by the manufacturer in accordance with Articles 4 and 6 of the EU Construction Products Regulation.]

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#### Textual Amendments

**F69** Arts. 16A-16C inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 17** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 9, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

## CHAPTER IV

### HARMONISED TECHNICAL SPECIFICATIONS

#### <sup>F70</sup>Article 17

#### Harmonised standards

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#### Textual Amendments

**F70** Art. 17 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 18** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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## <sup>F71</sup>Article 18

### Formal objection against harmonised standards

#### Textual Amendments

**F71** Art. 18 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 18** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## <sup>F72</sup>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.]

#### Textual Amendments

**F72** Arts. 18A-18C inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 19** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

*[<sup>F72</sup>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 [<sup>F73</sup>or adopted by an international standardising 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 IP completion day, which does not become designated under paragraph 2.

- 2 Where, immediately before IP completion 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 IP completion day; and the Secretary of State must, as soon as reasonably practicable after IP completion 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 IP completion day.

- 3 Before designating a standard under paragraph 1, the Secretary of State must have regard to whether the standard is consistent with any [<sup>F74</sup>, or any other, standards adopted by international standardising bodies] 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:

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- 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.

[<sup>F75</sup> In this Article “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).]]

#### Textual Amendments

- F72** Arts. 18A-18C inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 19** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F73** Words in Art. 18B(1)(a) inserted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 20(a)**; S.I. 2020/1662, reg. 2(ee)
- F74** Words in Art. 18B(3) substituted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 20(b)**; S.I. 2020/1662, reg. 2(ee)
- F75** Art. 18B(10) inserted (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(7), **Sch. 4 para. 20(c)**; S.I. 2020/1662, reg. 2(ee)

### <sup>F72</sup>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.]

#### Textual Amendments

- F72** Arts. 18A-18C inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 19** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 19

#### <sup>F76</sup>UK] Assessment Document

1 Following a request for a <sup>F77</sup>UK] Technical Assessment by a manufacturer, a <sup>F77</sup>UK] Assessment Document shall be drawn up and adopted by the <sup>F78</sup>responsible TAB] for any construction product not covered or not fully covered by a <sup>F79</sup>designated] standard, for which



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the performance in relation to its essential characteristics cannot be entirely assessed according to an existing [F79designated] standard, because, inter alia:

- a the product does not fall within the scope of any existing [F79designated] standard;
- b for at least one essential characteristic of that product, the assessment method provided for in the [F79designated] standard is not appropriate; or
- c the [F79designated] standard does not provide for any assessment method in relation to at least one essential characteristic of that product.

2 The procedure for adopting the [F80UK] Assessment Document shall respect the principles set out in Article 20 and shall comply with Article 21 and Annex II.

3 The [F81Secretary of State] may [F82make regulations] in accordance with Article 60 to amend Annex II and establish supplementary procedural rules for the development and adoption of a [F83UK] Assessment Document.

[F84 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.]

#### Textual Amendments

- F76** Word in [Art. 19](#) heading substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(2)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F77** Word in [Art. 19\(1\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(3)(a)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F78** Words in [Art. 19\(1\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(3)(b)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F79** Word in [Art. 19\(1\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(3)(c)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F80** Word in [Art. 19\(2\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(4)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F81** Words in [Art. 19\(3\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(5)(a)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F82** Words in [Art. 19\(3\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(5)(b)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F83** Word in [Art. 19\(3\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(5)(c)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F84** [Art. 19\(4\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 20(6)** (with [Sch. 1 para. 70](#)) (as amended by [S.I. 2020/1359](#), reg. 1, [Sch. 1 para. 17](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

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## Article 20

### Principles for the development and adoption of [F85UK] Assessment Documents

- 1 The procedure for developing and adopting [F86UK] Assessment Documents shall:
  - a be transparent to the manufacturer concerned;
  - b define appropriate mandatory time limits in order to avoid unjustified delay;
  - c take appropriately into account the protection of commercial secrecy and confidentiality;
  - d allow for adequate participation by the [F87Secretary of State];
  - e be cost-effective for the manufacturer; and
  - f ensure sufficient collegiality and coordination amongst TABs designated for the product in question.
- 2 The TABs shall <sup>F88</sup>... bear the full costs of the development and adoption of [F89UK] Assessment Documents.

#### Textual Amendments

- F85** Word in Art. 20 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 21(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F86** Word in Art. 20(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 21(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F87** Words in Art. 20(1)(d) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 21(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F88** Words in Art. 20(2) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 21(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F89** Word in Art. 20(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 21(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 21

### Obligations of the TAB receiving a request for a [F90UK] Technical Assessment

- 1 The [F91responsible TAB] shall inform the manufacturer if the construction product is covered, fully or partially, by a harmonised technical specification as follows:
  - a where the product is fully covered by a [F92designated] standard, the TAB shall inform the manufacturer that, in accordance with Article 19(1), a [F93UK] Technical Assessment cannot be issued;
  - b where the product is fully covered by a [F94UK] Assessment Document, the TAB shall inform the manufacturer that such a document will be used as the basis for the [F94UK] Technical Assessment to be issued;

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- c where the product is not covered, or not fully covered, by any harmonised technical specification, the TAB shall apply the procedures set out in Annex II or those established in accordance with Article 19(3).

[<sup>F95</sup>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.]

2 In the cases referred to in points (b) and (c) of paragraph 1, the [<sup>F96</sup>responsible] TAB shall inform <sup>F97</sup>... the [<sup>F98</sup>Secretary of State] of the content of the request and of the reference to a relevant [<sup>F98</sup>Secretary of State] decision for assessment and verification of constancy of performance, which the TAB intends to apply for that product, or of the lack of such a [<sup>F98</sup>Secretary of State] decision.

3 If the [<sup>F99</sup>Secretary of State] considers that an appropriate decision for assessment and verification of constancy of performance does not exist for the construction product, Article 28 shall apply.

#### Textual Amendments

- F90** Word in [Art. 21 heading](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(2\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F91** Words in [Art. 21\(1\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(3\)\(a\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F92** Word in [Art. 21\(1\)\(a\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(3\)\(b\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F93** Word in [Art. 21\(1\)\(a\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(3\)\(c\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F94** Word in [Art. 21\(1\)\(b\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(3\)\(c\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F95** [Art. 21\(1A\)](#) inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(4\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F96** Word in [Art. 21\(2\)](#) inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(5\)\(a\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F97** Words in [Art. 21\(2\)](#) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(5\)\(b\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F98** Words in [Art. 21\(2\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(5\)\(c\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F99** Words in [Art. 21\(3\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, [Sch. 1 para. 22\(6\)](#) (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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## <sup>F100</sup>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.]

#### Textual Amendments

**F100** Art. 22 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 23** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 23

### Dispute resolution in cases of disagreement between TABs

If the TABs do not agree upon the [<sup>F101</sup>UK] Assessment Document within the time limits provided for, the [<sup>F102</sup>responsible TAB] shall submit this matter to the [<sup>F103</sup>Secretary of State] for appropriate resolution.

#### Textual Amendments

**F101** Word in Art. 23 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 24(a)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F102** Words in Art. 23 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 24(b)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F103** Words in Art. 23 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 24(c)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 24

### Content of the [<sup>F104</sup>UK] Assessment Document

1 A [<sup>F105</sup>UK] Assessment Document shall contain, at least, a general description of the construction product, the list of essential characteristics, relevant for the intended use of the product as foreseen by the manufacturer and agreed between the manufacturer and the [<sup>F106</sup>responsible TAB], as well as the methods and criteria for assessing the performance of the product in relation to those essential characteristics.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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2 Principles for the applicable factory production control to be applied shall be set out in the [F107UK] Assessment Document, taking into account the conditions of the manufacturing process of the construction product concerned.

3 Where the performance of some of the essential characteristics of the product can appropriately be assessed with methods and criteria already established in other harmonised technical specifications F108 ... , those existing methods and criteria shall be incorporated as parts of the [F109UK] Assessment Document.

[F1104 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 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.]

#### Textual Amendments

- F104** Word in Art. 24 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F105** Word in Art. 24(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F106** Words in Art. 24(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F107** Word in Art. 24(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F108** Words in Art. 24(3) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(5)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F109** Word in Art. 24(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(5)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F110** Art. 24(4) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 25(6)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### [F111 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.

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

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.]

#### Textual Amendments

**F111** Art. 25 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 26** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 26

#### [<sup>F112</sup>UK] Technical Assessment

1 The [<sup>F113</sup>UK] Technical Assessment shall be issued by a TAB, at the request of a manufacturer on the basis of a [<sup>F113</sup>UK] Assessment Document established in accordance with the procedures set out in Article 21 and Annex II.

Provided that there is a [<sup>F113</sup>UK] Assessment Document, a [<sup>F113</sup>UK] Technical Assessment may be issued even in the case where a [<sup>F114</sup>standardisation] mandate for a [<sup>F115</sup>designated] standard has been issued. Such issuing shall be possible until the beginning of the coexistence period as determined <sup>F116</sup>... in accordance with [<sup>F117</sup>Article 18B].

2 The [<sup>F118</sup>UK] Technical Assessment shall include the performance to be declared, by levels or classes, or in a description, of those essential characteristics agreed by the manufacturer and the [<sup>F119</sup>responsible TAB] for the declared intended use, and technical details necessary for the implementation of the system of assessment and verification of constancy of performance.

[<sup>F120</sup>3 The Secretary of State must make regulations to establish the format of the UK Technical Assessment.]

#### Textual Amendments

**F112** Word in Art. 26 heading substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 27(2)(a)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F113** Word in Art. 26(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 27(2)(a)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F114** Word in Art. 26(1) inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 27(2)(b)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F115** Word in Art. 26(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 27(2)(c)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F116** Words in Art. 26(1) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 27(2)(d)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F117** Words in Art. 26(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 27(2)(e)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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- F118** Word in Art. 26(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 27(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F119** Words in Art. 26(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 27(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F120** Art. 26(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 27(4)** (with Sch. 1 paras. 70, 76) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## <sup>F121</sup> 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 Great Britain.

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

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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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 Great Britain when determining threshold levels or classes of performance.]

#### Textual Amendments

**F121** Art. 27 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 28** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 10, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

### Article 28

#### Assessment and verification of constancy of performance

1 Assessment and verification of constancy of performance of construction products in relation to their essential characteristics shall be carried out in accordance with one of the systems set out in Annex V.

2 By means of [<sup>F122</sup>regulations] in accordance with Article 60, the [<sup>F123</sup>Secretary of State may] establish and may revise, taking into account in particular the effect on the health and safety of people, and on the environment, which system or systems are applicable to a given construction product or family of construction products or a given essential characteristic.<sup>F124</sup> ...

The [<sup>F125</sup>Secretary of State] shall choose the least onerous system or systems consistent with the fulfilment of all basic requirements for construction works.

3 The system or systems thus determined shall be indicated in the [<sup>F126</sup>standardisation mandates, standards prepared under Article 18A, and UK Assessment Documents.]

#### Textual Amendments

**F122** Word in Art. 28(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 29(2)(a)(i)** (with Sch. 1 paras. 70, 75) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

**F123** Words in Art. 28(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 29(2)(a)(ii)** (with Sch. 1 paras. 70, 75) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

**F124** Words in Art. 28(2) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 29(2)(a)(iii)** (with Sch. 1 paras. 70, 75) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

**F125** Words in Art. 28(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 29(2)(b)** (with Sch. 1 paras. 70, 75) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

**F126** Words in Art. 28(3) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 29(3)** (with Sch. 1 paras. 70, 75) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**



## CHAPTER V

## TECHNICAL ASSESSMENT BODIES

*[<sup>F127</sup>Article 29***Designation, monitoring and evaluation of TABs**

- 1 A 'TAB' is a technical assessment body which:
  - a is designated as such by the Secretary of State under paragraph 3; or
  - b immediately before IP completion day was designated as such a body by the Secretary of State under this Article for one or several product areas.
- 2 Paragraph 1 is subject to Article 30(3) (withdrawal of designation).
- 3 The Secretary of State may designate a body established in the United Kingdom as a technical assessment body for one or several of the product areas listed in Table 1 of Annex 4.
- 4 The Secretary of State must make publicly available by electronic means the list of TABs indicating the product areas for which they are designated.
- 5 The Secretary of State must make any updates to that list publicly available.
- 6 The Secretary of State must monitor the activities and competence of the TABs and evaluate them in relation to the respective requirements set out in Table 2 of Annex 4.]

**Textual Amendments**

**F127** Art. 29 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 30** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

*Article 30***Requirements for TABs**

- 1 A TAB shall carry out the assessment and issue the [<sup>F128</sup>UK] Technical Assessment in a product area for which it has been designated.

The TAB shall satisfy the requirements set out in Table 2 of Annex IV within the scope of its designation.

- <sup>F129</sup> A TAB must:
- a work together with other TABs to develop UK Assessment Documents in accordance with Annex 2;
  - b share any observations concerning another TAB not fulfilling its tasks in accordance with Article 21 and Annex 2 with the Secretary of State;
  - c share examples of best practice with other TABs to promote greater efficiency and provide a better service to industry;
  - d make publicly available its organogram and the names of the members of its internal decision-making bodies.]

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

3 Where a TAB no longer complies with the requirements referred to in paragraph 1, the <sup>F130</sup>Secretary of State] shall withdraw the designation of that TAB for the relevant product area <sup>F131</sup>...

#### Textual Amendments

- F128** Word in Art. 30(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 31(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F129** Art. 30(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 31(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F130** Words in Art. 30(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 31(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F131** Words in Art. 30(3) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 31(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### <sup>F132</sup>Article 31

#### Coordination of TABs

1 The TABs must make such arrangements as they consider appropriate to ensure the coordination of TABs and, if necessary, cooperation and consultation with other stakeholders.

2 If the TABs decide to establish a separate body having legal personality and established in the United Kingdom to facilitate the coordination of TABs, a responsible TAB may delegate its functions under the specified provisions in relation to developing and adopting UK Assessment Documents to that body.

3 The “specified provisions” are—

- a Article 19(1);
- b Article 22(1);
- c Article 23;
- d Article 24;
- e Article 27;
- f sections 2, 4, 5, 7, 8 (excluding the duty to communicate the draft UK Assessment Document to the manufacturer) and 9 of Annex 2.]

#### Textual Amendments

- F132** Art. 31 substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 32** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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## *F<sup>133</sup>* Article 32

### Financing

1 The Secretary of State may provide financial assistance to a TAB for the implementation of the tasks referred to in Articles 30(2) and 31.

2 Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.]

#### Textual Amendments

**F133** Art. 32 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 33** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## *F<sup>134</sup>* Article 33

### Financing arrangements

#### Textual Amendments

**F134** Arts. 33-35 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 34** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## *F<sup>134</sup>* Article 34

### Management and monitoring

#### Textual Amendments

**F134** Arts. 33-35 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 34** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## *F<sup>134</sup>* Article 35

### Protection of the Union's financial interests

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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### Textual Amendments

**F134** Arts. 33-35 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 34** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER VI

### SIMPLIFIED PROCEDURES

#### Article 36

#### Use of Appropriate Technical Documentation

1 In determining the product-type, a manufacturer may replace type-testing or type-calculation by Appropriate Technical Documentation demonstrating that:

- a for one or several essential characteristics of the construction product, which the manufacturer places on the market, that product is deemed to achieve a certain level or class of performance without testing or calculation, or without further testing or calculation, in accordance with the conditions set out in the relevant harmonised technical specification or <sup>F135</sup>established by the Secretary of State under Article 27(5);
- b the construction product, covered by a <sup>F136</sup>designated] standard, which the manufacturer places on the market corresponds to the product-type of another construction product, manufactured by another manufacturer and already tested in accordance with the relevant <sup>F136</sup>designated] standard. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results of this other product. The manufacturer may use the test results obtained by another manufacturer only after having obtained an authorisation of that manufacturer, who remains responsible for the accuracy, reliability and stability of those test results; or
- c the construction product, covered by a harmonised technical specification, which the manufacturer places on the market is a system made of components, which the manufacturer assembles duly following precise instructions given by the provider of such a system or of a component thereof, who has already tested that system or that component for one or several of its essential characteristics in accordance with the relevant harmonised technical specification. When these conditions are fulfilled, the manufacturer is entitled to declare performance corresponding to all or part of the test results for the system or the component provided to him. The manufacturer may use the test results obtained by another manufacturer or system provider only after having obtained an authorisation of that manufacturer or system provider, who remains responsible for the accuracy, reliability and stability of those test results.

2 If the construction product referred to in paragraph 1 belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is system 1 + or 1, as set out in Annex V, the Appropriate Technical Documentation referred to in paragraph 1 shall be verified by <sup>F137</sup>an approved] product certification body as referred to in Annex V.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

- F135** Words in Art. 36(1)(a) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 35(2)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F136** Word in Art. 36(1)(b) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 35(2)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F137** Words in Art. 36(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 35(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 37

### Use of simplified procedures by micro-enterprises

Micro-enterprises manufacturing construction products covered by a [<sup>F138</sup>designated] standard may replace the determination of the product-type on the basis of type-testing for the applicable systems 3 and 4 as set out in Annex V by using methods differing from those contained in the applicable [<sup>F138</sup>designated] standard. Those manufacturers may also treat construction products to which system 3 applies in accordance with provisions for system 4. When a manufacturer uses these simplified procedures, the manufacturer shall demonstrate compliance of the construction product with the applicable requirements by means of a Specific Technical Documentation and shall demonstrate the equivalence of the procedures used to the procedures laid down in the [<sup>F138</sup>designated] standards.

### Textual Amendments

- F138** Word in Art. 37 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 36** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 38

### Other simplified procedures

1 In relation to construction products covered by a [<sup>F139</sup>designated] standard and which are individually manufactured or custom-made in a non-series process in response to a specific order, and which are installed in a single identified construction work, the performance assessment part of the applicable system, as set out in Annex V, may be replaced by the manufacturer by Specific Technical Documentation demonstrating compliance of that product with the applicable requirements and equivalence of the procedures used to the procedures laid down in the [<sup>F139</sup>designated] standards.

2 If the construction product referred to in paragraph 1 belongs to a family of construction products for which the applicable system for assessment and verification of constancy of performance is system 1 + or 1, as set out in Annex V, the Specific Technical Documentation shall be verified by [<sup>F140</sup>an approved] product certification body as referred to in Annex V.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

- F139** Word in Art. 38(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 37(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F140** Words in Art. 38(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 37(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER VII

### [<sup>F141</sup>APPROVED BODIES]

<sup>F142</sup>Article 39

#### Notification

### Textual Amendments

- F142** Art. 39 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 39** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

[<sup>F143</sup>Article 39A

#### Approved bodies

- 1 An “approved body” is a body which:
  - a is approved by the Secretary of State under Article 48 as a body authorised to carry out third party tasks in the process of assessment and verification of constancy of performance under this Regulation; or
  - b immediately before IP completion day was a notified body in respect of which the Secretary of State had taken no action under Article 50(1) (as it had effect immediately before IP completion day) to suspend or withdraw the body's status as a notified body.
- 2 Paragraph 1 has effect subject to Article 50(1) (restriction, suspension or withdrawal of approval).
- 3 Where an approved body was a notified body before IP completion day:
  - a it is to be treated on or after IP completion day as approved in respect of the same activities in relation to a harmonised standard in respect of which it was notified immediately before IP completion day where that standard becomes designated under Article 18B(2);
  - b any horizontal notification which was in force immediately before IP completion day in relation to a case set out in point 3 of Annex 5 to the EU Construction Products Regulation is to be treated on or after IP completion day as a horizontal approval under this Regulation.]

### Textual Amendments

**F143** Art. 39A inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 40** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 40

### [<sup>F144</sup>Assessment, approval and monitoring of approved bodies]

1 [<sup>F145</sup>The Secretary of State] shall be responsible for setting up and carrying out the necessary procedures for the assessment and [<sup>F146</sup>approval] of the bodies to be authorised to carry out third-party tasks in the process of assessment and verification of constancy of performance for the purposes of this Regulation, and for the monitoring of [<sup>F147</sup>approved] bodies, including their compliance with Article 43.

2 [<sup>F148</sup>The Secretary of State] may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by [<sup>F149</sup>the UK national accreditation body].

[<sup>F150</sup>3 Where the Secretary of State delegates or otherwise entrusts the assessment, approval or monitoring referred to in paragraph 1 to a body which is not a governmental entity, that body must be a legal entity and must comply with the following requirements:

- a it must be established in such a way that no conflicts of interest with approved bodies occur;
- b it must be organised and operated so as to safeguard the objectivity and impartiality of its activities;
- c it must be organised in such a way that each decision relating to approval of a body to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance is taken by competent persons different from those who carried out the assessment;
- d it must not offer or provide activities performed by approved bodies, or consultancy services on a commercial or competitive basis;
- e it must safeguard the confidentiality of the information obtained;
- f it must have a sufficient number of competent personnel at its disposal for the proper performance of its tasks;
- g it must have arrangements to cover liabilities arising from its activities.]

4 The [<sup>F151</sup>Secretary of State] shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

### Textual Amendments

**F144** Art. 40 heading substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 41(2)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F145** Words in Art. 40(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 41(3)(a)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F146** Word in Art. 40(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 41(3)(b)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

- F147** Word in Art. 40(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 41(3)(c)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F148** Words in Art. 40(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 41(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F149** Words in Art. 40(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 41(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F150** Art. 40(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 41(4)(c)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F151** Words in Art. 40(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 41(5)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### *F152* Article 41

### Requirements relating to notifying authorities

#### Textual Amendments

- F152** Art. 41 omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 42** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 42

### Information obligation for Member States

**F153**

#### Textual Amendments

- F153** Art. 42 omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 42** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 43

### Requirements for [<sup>F154</sup>approved] bodies

- 1 [<sup>F155</sup>An approved] body shall meet the requirements set out in paragraphs 2 to 11.
- 2 [<sup>F156</sup>An approved] body shall be established [<sup>F157</sup>in the United Kingdom] and have legal personality.



3 [F158 An approved] body shall be a third-party body independent from the organisation or the construction product it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of construction products which it assesses, can on condition that its independence and the absence of any conflict of interest are demonstrated, be considered to be such a body.

4 [F158 An approved] body, its top-level management and the personnel responsible for carrying out the third party tasks in the process of assessment and verification of constancy of performance shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the construction products which it assesses, nor the authorised representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the [F159 approved] body or the use of products for personal purposes.

[F158 An approved] body, its top-level management and the personnel responsible for carrying out the third party tasks in the process of assessment and verification of constancy of performance shall not become directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of those construction products, nor represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement and integrity related to the activities for which they have been [F159 approved]. This shall, in particular, apply to consultancy services.

[F158 An approved] body shall ensure that activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity and impartiality of its assessment and/or verification activities.

5 [F158 An approved] body and its personnel shall carry out the third party tasks in the process of assessment and verification of constancy of performance with the highest degree of professional integrity and requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their assessment and/or verification activities, especially from persons or groups of persons with an interest in the results of those activities.

6 [F158 An approved] body shall be capable of carrying out all the third party tasks in the process of assessment and verification of constancy of performance assigned to it in accordance with Annex V in relation to which it has been [F159 approved], whether those tasks are carried out by the [F159 approved] body itself or on its behalf and under its responsibility.

At all times and for each system of assessment and verification of constancy of performance and for each kind or category of construction products, essential characteristics and tasks in relation to which it has been [F159 approved], the [F159 approved] body shall have the following at its disposal:

- a the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the third party tasks in the process of assessment and verification of constancy of performance;
- b the necessary description of procedures according to which the assessment of performance is carried out, ensuring the transparency and the ability of reproduction of these procedures; it shall have appropriate policies and procedures in place that distinguish between the tasks it carries out as [F158 an approved] body and other activities;
- c the necessary procedures to perform its activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

of the product technology in question and the mass or serial nature of the production process.

[<sup>F158</sup>An approved] body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it is [<sup>F159</sup>approved] in an appropriate manner and shall have access to all necessary equipment or facilities.

7 The personnel responsible for carrying out the activities in relation to which the body has been [<sup>F160</sup>approved], shall have the following:

- a sound technical and vocational training covering all the third party tasks in the process of assessment and verification of constancy of performance within the relevant scope for which the body has been [<sup>F160</sup>approved];
- b satisfactory knowledge of the requirements of the assessments and verifications they carry out and adequate authority to carry out such operations;
- c appropriate knowledge and understanding of the applicable [<sup>F161</sup>designated] standards and of the relevant provisions of the Regulation;
- d the ability required to draw up the certificates, records and reports to demonstrate that the assessments and the verifications have been carried out.

8 The impartiality of the [<sup>F162</sup>approved] body, its top-level management and assessment personnel shall be guaranteed.

The remuneration of the [<sup>F162</sup>approved] body's top-level management and assessment personnel shall not depend on the number of assessments carried out or on the results of such assessments.

[<sup>F163</sup> An approved body must have adequate liability insurance in respect of its activities.]

10 The personnel of the [<sup>F164</sup>approved] body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks under Annex V, except in relation to [<sup>F165</sup>a competent authority, the UK national accreditation body or any other body to which the Secretary of State delegates or otherwise entrusts the monitoring of the approved body.] Proprietary rights shall be protected.

11 [<sup>F166</sup>An approved] body shall participate in, or ensure that its assessment personnel is informed of, the relevant standardisation activities and the activities of the [<sup>F167</sup>approved] body coordination group established under this Regulation and shall apply as general guidance the administrative decisions and documents produced as a work result of that group.

#### Textual Amendments

**F154** Word in Art. 43 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F155** Words in Art. 43(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(3)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F156** Words in Art. 43(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F157** Words in Art. 43(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

- F158** Words in art. 43(3)-(6) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(5)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F159** Word in art. 43(3)-(6) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(5)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F160** Word in Art. 43(7) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(6)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F161** Word in Art. 43(7)(c) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(6)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F162** Word in Art. 43(8) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(7)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F163** Art. 43(9) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(8)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F164** Word in Art. 43(10) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(9)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F165** Words in Art. 43(10) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(9)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F166** Words in Art. 43(11) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(10)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F167** Word in Art. 43(11) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 43(10)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 44

#### Presumption of conformity

[<sup>F168</sup>An approved] body to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance which demonstrates its conformity with the criteria laid down in the relevant [<sup>F169</sup>designated] standards or parts thereof <sup>F170</sup>... shall be presumed to comply with the requirements set out in Article 43 in so far as the applicable [<sup>F169</sup>designated] standards cover those requirements.

#### Textual Amendments

- F168** Words in Art. 44 substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 44(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F169** Word in Art. 44 substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 44(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

**F170** Words in Art. 44 omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 44(c)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 45

### Subsidiaries and subcontractors of [<sup>F171</sup>approved] bodies

1 Where [<sup>F172</sup>an approved] body subcontracts specific tasks connected with the third party tasks in the process of assessment and verification of constancy of performance or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 43, and shall inform the [<sup>F173</sup>Secretary of State] accordingly.

2 The [<sup>F174</sup>approved] body shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

3 Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4 The [<sup>F175</sup>approved] body shall keep at the disposal of the [<sup>F176</sup>Secretary of State] the relevant documents concerning the assessment of the qualifications of any subcontractor or the subsidiary and the tasks carried out by such parties under Annex V.

#### Textual Amendments

**F171** Word in Art. 45 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 45(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F172** Words in Art. 45(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 45(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F173** Words in Art. 45(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 45(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F174** Word in Art. 45(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 45(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F175** Word in Art. 45(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 45(5)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F176** Words in Art. 45(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 45(5)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 46

### Use of facilities outside the testing laboratory of the [<sup>F177</sup>approved] body

1 On request of the manufacturer and where justified by technical, economic or logistic reasons, [<sup>F178</sup>approved] bodies may decide to carry out the tests referred to in Annex V, for the systems of assessment and verification of constancy of performance 1+, 1 and 3 or have

such tests carried out under their supervision, either in the manufacturing plants using the test equipments of the internal laboratory of the manufacturer or, with the prior consent of the manufacturer, in an external laboratory, using the test equipments of that laboratory.

[<sup>F178</sup>Approved] bodies carrying out such tests shall be specifically designated as competent to work away from their own accredited test facilities.

2 Before carrying out those tests, the [<sup>F178</sup>approved] body shall verify whether the requirements of the test method are satisfied and shall evaluate whether:

- a test equipment has an appropriate calibration system and the traceability of the measurements is guaranteed;
- b the quality of the test results is ensured.

#### Textual Amendments

**F177** Word in Art. 46 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 46** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F178** Word in Art. 46 substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 46** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 47

#### Application for [<sup>F179</sup>approval]

1 A body to be authorised to carry out third party tasks in the process of assessment and verification of constancy of performance shall submit an application for [<sup>F180</sup>approval] to the [<sup>F181</sup>Secretary of State.]

2 The application shall be accompanied by a description of the activities to be performed, the assessment and/or verification procedures for which the body claims to be competent, an accreditation certificate, where one exists, issued by the [<sup>F182</sup>UK] national accreditation body <sup>F183</sup>... , attesting that the body meets the requirements laid down in Article 43.

3 Where the body concerned cannot provide an accreditation certificate, it shall provide the [<sup>F184</sup>Secretary of State] with all documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 43.

#### Textual Amendments

**F179** Word in Art. 47 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 47(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F180** Word in Art. 47(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 47(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F181** Words in Art. 47(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 47(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

- F182** Word in Art. 47(2) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 47(4)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F183** Words in Art. 47(2) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 47(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F184** Words in Art. 47(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 47(5)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 48

#### [<sup>F185</sup>Approval] procedure

1 [<sup>F186</sup>The Secretary of State] may [<sup>F187</sup>approve] only bodies which have satisfied the requirements laid down in Article 43.

<sup>F188</sup>2 .....

3 The [<sup>F189</sup>approval] shall include full details of the functions to be performed, reference to the relevant harmonised technical specification and, for the purposes of the system set out in Annex V, the essential characteristics for which the body is competent.

However, reference to the relevant harmonised technical specification is not required in the cases set out in point 3 of Annex V.

<sup>F190</sup>4 .....

<sup>F190</sup>5 .....

<sup>F190</sup>6 .....

#### Textual Amendments

- F185** Word in Art. 48 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 48(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F186** Words in Art. 48(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 48(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F187** Word in Art. 48(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 48(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F188** Art. 48(2) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 48(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F189** Word in Art. 48(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 48(5)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F190** Art. 48(4)-(6) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 48(6)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

## Article 49

### Identification numbers and lists of <sup>F191</sup>approved bodies

1 The <sup>F192</sup>Secretary of State] shall assign an identification number to each <sup>F193</sup>approved] body.

It shall assign a single such number even where the body is <sup>F193</sup>approved] under several <sup>F194</sup>relevant enactments].

2 The <sup>F195</sup>Secretary of State] shall make publicly available the list of <sup>F196</sup>approved bodies], including the identification numbers that have been allocated to them and the activities for which they have been <sup>F197</sup>approved.]

The <sup>F198</sup>Secretary of State] shall ensure that this list is kept up-to-date.

<sup>F1993</sup> The Secretary of State may authorise the UK national accreditation body to compile and maintain the list referred to in paragraph 2.]

#### Textual Amendments

- F191** Word in Art. 49 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F192** Words in Art. 49(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(3)(a)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F193** Word in Art. 49(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(3)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F194** Words in Art. 49(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(3)(c)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F195** Words in Art. 49(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(4)(a)(i)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F196** Words in Art. 49(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(4)(a)(ii)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F197** Word in Art. 49(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(4)(a)(iii)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F198** Words in Art. 49(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(4)(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F199** Art. 49(3) inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 49(5)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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## <sup>F200</sup>Article 50

### Changes to the approval

1 Where the Secretary of State considers that an approved body no longer meets the requirements in Article 43, or that it is failing to fulfil its obligations, the Secretary of State must restrict, suspend or withdraw the approval as appropriate, depending on the seriousness of the failure to meet those requirements or to fulfil those obligations.

2 In the event of withdrawal, restriction or suspension of approval or where the approved body has ceased its activity, the Secretary of State must take the appropriate steps to ensure that the files of that body are either processed by another approved body or kept available for the Secretary of State and other market surveillance authorities at their request.]

#### Textual Amendments

**F200** Art. 50 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 50** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## <sup>F201</sup>Article 51

### Challenge of the competence of notified bodies

#### Textual Amendments

**F201** Art. 51 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 51** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## Article 52

### Operational obligations for [<sup>F202</sup>approved] bodies

1 [<sup>F203</sup>Approved] bodies shall carry out third party tasks in accordance with the systems of assessment and verification of constancy of performance provided for in Annex V.

2 Assessments and verifications of constancy of performance shall be carried out with transparency as regards the manufacturer, and in a proportionate manner, avoiding an unnecessary burden for economic operators. The [<sup>F204</sup>approved] bodies shall perform their activities taking due account of the size of the undertaking, the sector in which the undertaking operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing, the [<sup>F204</sup>approved] bodies shall nevertheless respect the degree of rigour required for the product by this Regulation and the part played by the product for the fulfilment of all basic requirements for construction works.



3 Where, in the course of the initial inspection of the manufacturing plant and of factory production control, [F205an approved] body finds that the manufacturer has not ensured the constancy of performance of the manufactured product, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate.

4 Where, in the course of the monitoring activity aiming at the verification of the constancy of performance of the manufactured product, [F206an approved] body finds that a construction product no longer has the same performance to that of the product-type, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw its certificate if necessary.

5 Where corrective measures are not taken or do not have the required effect, the [F207approved] body shall restrict, suspend or withdraw any certificates, as appropriate.

#### Textual Amendments

**F202** Word in Art. 52 heading substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 52(2)** (with Sch. 1 paras. 70, 72-74) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F203** Word in Art. 52(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 52(2)** (with Sch. 1 paras. 70, 72-74) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F204** Word in Art. 52(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 52(2)** (with Sch. 1 paras. 70, 72-74) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F205** Words in Art. 52(3) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 52(3)** (with Sch. 1 paras. 70, 72-74) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F206** Words in Art. 52(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 52(3)** (with Sch. 1 paras. 70, 72-74) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F207** Word in Art. 52(5) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 52(4)** (with Sch. 1 paras. 70, 72-74) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 53

#### Information obligations for [F208approved] bodies

1 [F209Approved] bodies shall inform the [F210Secretary of State] of the following:

- a any refusal, restriction, suspension or withdrawal of certificates;
- b any circumstances affecting the scope of, and conditions for, [F211approval];
- c any request for information on assessment and/or verification of constancy of performance activities carried out which they have received from market surveillance authorities;
- d on request, third party tasks in accordance with the systems of assessment and verification of constancy of performance carried out within the scope of their [F212approval] and any other activity performed, including cross-border activities and subcontracting.

2 [F213Approved] bodies shall provide the other bodies [F213approved] under this Regulation carrying out similar third party tasks in accordance with the systems of assessment

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and verification of constancy of performance and for construction products covered by the same harmonised technical specification with relevant information on issues relating to negative and, on request, positive results from these assessments and/or verifications.

#### Textual Amendments

- F208** Word in [Art. 53](#) heading substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 53(2)** (with Sch. 1 paras. 70, 73) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F209** Word in [Art. 53\(1\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 53(3)(a)(i)** (with Sch. 1 paras. 70, 73) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F210** Words in [Art. 53\(1\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 53(3)(a)(ii)** (with Sch. 1 paras. 70, 73) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F211** Word in [Art. 53\(1\)\(b\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 53(3)(b)** (with Sch. 1 paras. 70, 73) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F212** Word in [Art. 53\(1\)\(d\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 53(3)(b)** (with Sch. 1 paras. 70, 73) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F213** Word in [Art. 53\(2\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 53(4)** (with Sch. 1 paras. 70, 73) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### <sup>F214</sup> Article 54

### Exchange of experience

#### Textual Amendments

- F214** [Art. 54](#) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/465), reg. 1, **Sch. 1 para. 54** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

#### <sup>F215</sup> Article 55

### Coordination of approved bodies

1 The Secretary of State must establish a group of approved bodies to ensure appropriate coordination and cooperation between approved bodies.

2 Approved bodies must participate in the work of that group, directly or by means of designated representatives, or ensure that their representatives are informed of the work of the group.]

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

**F215** Art. 55 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 55** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Textual Amendments

**F141** Ch. 7 heading substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 38** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER VIII

### MARKET SURVEILLANCE <sup>F216</sup>...

#### Article 56

#### Procedure to deal <sup>F217</sup> ... with construction products presenting a risk

1 Where the market surveillance authorities <sup>F218</sup>... have taken action pursuant to Article 20 of [<sup>F219</sup>RAMS] or where they have sufficient reason to believe that a construction product covered by a [<sup>F220</sup>designated] standard or for which a [<sup>F221</sup>UK] Technical Assessment has been issued does not achieve the declared performance and presents a risk for the fulfilment of the basic requirements for construction works covered by this Regulation, they shall carry out an evaluation in relation to the product concerned covering the respective requirements laid down by this Regulation. The relevant economic operators shall cooperate as necessary with the market surveillance authorities.

Where, in the course of that evaluation, the market surveillance authorities find that the construction product does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take all appropriate corrective actions to bring the product into compliance with those requirements, notably with the declared performance, or to withdraw the product from the market, or recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the [<sup>F222</sup>approved] body accordingly, if [<sup>F223</sup>an approved] body is involved.

Article 21 of [<sup>F224</sup>RAMS] shall apply to the measures referred to in the second subparagraph of this paragraph.

<sup>F225</sup>2 .....

<sup>F225</sup>3 .....

4 Where the relevant economic operator, within the period referred to in the second subparagraph of paragraph 1, does not take adequate corrective action, the market surveillance authorities shall take all appropriate <sup>F226</sup>... measures to prohibit or restrict the making available

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of the construction product on the <sup>F226</sup>... market or to withdraw the construction product from that market or to recall it.

F227

...

F228<sup>5</sup>

F228<sup>6</sup>

F228<sup>7</sup>

F228<sup>8</sup>

### Textual Amendments

- F217** Words in Art. 56 heading omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(2)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F218** Words in Art. 56(1) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(a)(i)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F219** Word in Art. 56(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(a)(ii)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F220** Word in Art. 56(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(a)(iii)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F221** Word in Art. 56(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(a)(iv)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F222** Word in Art. 56(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(b)(i)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F223** Words in Art. 56(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(b)(ii)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F224** Word in Art. 56(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(3)(c)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F225** Art. 56(2)(3) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(4)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)
- F226** Words in Art. 56(4) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(5)(a)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F227** Words in Art. 56(4) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(5)(b)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F228** Art. 56(5)-(8) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 57(6)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

<sup>F229</sup>Article 57

**Union safeguard procedure**

**Textual Amendments**

**F229** Art. 57 omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 58** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

Article 58

**Complying construction products which nevertheless present a risk to health and safety**

1 Where, having performed an evaluation pursuant to Article 56(1), [<sup>F230</sup>a market surveillance authority] finds that, although a construction product is in compliance with this Regulation, it presents a risk for the fulfilment of the basic requirements for construction works, to the health or safety of persons or to other aspects of public interest protection, it shall require the relevant economic operator to take all appropriate measures to ensure that the construction product concerned, when placed on the market, no longer presents that risk, to withdraw the construction product from the market or to recall it within a reasonable period, commensurate with the nature of the risk, which it may prescribe.

- <sup>F231</sup>2 .....
- <sup>F231</sup>3 .....
- <sup>F231</sup>4 .....
- <sup>F231</sup>5 .....

**Textual Amendments**

**F230** Words in Art. 58(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 59(a)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

**F231** Art. 58(2)-(5) omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 59(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

Article 59

**Formal non-compliance**

1 Without prejudice to Article 56, where a [<sup>F232</sup>market surveillance authority] makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:

- a the [<sup>F233</sup>UK] marking has been affixed in breach of Article 8 or 9;

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- b the [<sup>F234</sup>UK] marking has not been affixed, when required, in accordance with Article 8(2);
- c without prejudice to Article 5, the declaration of performance has not been drawn up, when required, in accordance with Article 4;
- d the declaration of performance has not been drawn up in accordance with Articles 4, 6 and 7;
- e the technical documentation is either not available or not complete.

2 Where the non-compliance referred to in paragraph 1 continues, the [<sup>F235</sup>market surveillance authority] shall take all appropriate measures to restrict or prohibit the making available on the market of the construction product or ensure that it is recalled or withdrawn from the market.

#### Textual Amendments

- F232** Words in Art. 59(1) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 60(2)(a)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F233** Word in Art. 59(1)(a) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 60(2)(b)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F234** Word in Art. 59(1)(b) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 60(2)(b)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**
- F235** Words in Art. 59(2) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 60(3)** (with Sch. 1 paras. 70, 71) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 15, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

#### [<sup>F236</sup>Article 59A

#### Formal non-compliance in relation to the EU Construction Products Regulation

1 Without prejudice to Article 56, where a market surveillance authority considers an economic operator is seeking to rely on provisions in Article 16A, 16B or 16C in order to comply with the requirements of this Regulation and makes one of the following findings, it must require the relevant economic operator to put an end to the non-compliance concerned:

- a the CE marking, or in the case of a product to which regulation 4(2)(b) of the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 applies, the CE marking accompanied by the UK(NI) indication, has not been affixed in accordance with Article 8(2) of the EU Construction Products Regulation;
- b the CE marking, or in the case of a product to which that regulation 4(2)(b) applies, the CE marking accompanied by the UK(NI) indication, has been affixed in breach of Article 8 or 9 of the EU Construction Products Regulation;
- c the declaration of performance has not been drawn up in accordance with Articles 4 and 6 of the EU Construction Products Regulation and Article 7 of this Regulation (as modified by Article 16A);
- d the technical documentation referred to in the second subparagraph of Article 11(1) of the EU Construction Products Regulation is either not available or not complete.

2 Where the non-compliance referred to in paragraph 1 continues, the market surveillance authority must take all appropriate measures to restrict or prohibit the making

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

available on the market of the construction product or ensure that it is recalled or withdrawn from the market.]

#### Textual Amendments

**F236** Arts. 59A, 59B inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 61** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 11, **17**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### <sup>F236</sup> Article 59B

### Other non-compliance in relation to the EU Construction Products Regulation

- 1 Paragraph 2 applies where an economic operator:
  - a relies on provisions in Article 16A, 16B or 16C in order to comply with this Regulation when making a product available on the market; and
  - b after the product is made available on the market:
    - i) the manufacturer is required, or becomes aware that another person is required, under the EU Construction Products Regulation to take corrective measures in relation to products on the market of the EU, or to withdraw or recall products from that market, and, if the United Kingdom had remained a member State, this requirement would have extended to the product in question; or
    - ii) a certificate in relation to the product is suspended or withdrawn, or restricted to the extent that it is no longer valid for that product, under Article 52(4) or (5) of the EU Construction Products Regulation.
- 2 Where this paragraph applies:
  - a the product referred to in paragraph 1(a) is no longer considered to be compliant with this Regulation;
  - b the manufacturer must inform a market surveillance authority and any importer or distributor of the product of the action referred to in paragraph 1(b)(i) or 1(b)(ii) which is required, or has been taken, under the EU Construction Products Regulation;
  - c the manufacturer and any importer or distributor of the product must take any action required under Article 11(7), Article 13(7) or Article 14(4) respectively;
  - d a market surveillance authority may require the manufacturer or any importer or distributor of the product to take corrective measures to bring the product into conformity with this Regulation or to withdraw or recall it from the market.]

#### Textual Amendments

**F236** Arts. 59A, 59B inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 61** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 11, **17**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### Textual Amendments

**F216** Words in Ch. 8 heading omitted (31.12.2020) by virtue of The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 56** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

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## CHAPTER IX

### FINAL PROVISIONS

#### <sup>F237</sup> Article 60

#### Regulations

1 For the purposes of achieving the objectives of this Regulation, in particular removing and avoiding restrictions on making construction products available on the market, the Secretary of State may by regulations:

- a determine the essential characteristics or threshold levels within specific families of construction products, in relation to which, in accordance with Articles 3 to 6, the manufacturer must declare, in relation to their intended use, by levels or classes, or in a description, the performance of the manufacturer's product when it is placed on the market;
- b determine the conditions on which a declaration of performance may be electronically processed, in order to make it available on a web site in accordance with Article 7;
- c amend the period for which the manufacturer must keep the technical documentation and the declaration of performance after the construction product has been placed on the market, in accordance with Article 11, based on the expected life or the part played by the construction product in the construction works;
- d amend Annex 2 and adopt supplementary procedural rules in accordance with Article 19(3) in order to ensure compliance with the principles in Article 20, or the application in practice of the procedures set out in Article 21;
- e amend Annex 3, table 1 of Annex 4, and Annex 5 in response to technical progress;
- f establish and adapt classes of performance in response to technical progress in accordance with Article 27(1);
- g determine the conditions on which a construction product is to be deemed to satisfy a certain level or class of performance without testing or without further testing in accordance with Article 27(5), provided that the fulfilment of the basic requirements for construction works is not thereby jeopardised;
- h adapt, establish and revise the system or systems of assessment and verification of constancy of performance, in accordance with Article 28, relating to a given construction product, a given product family or a given essential characteristic, and in accordance with:
  - i) the importance of the part played by the product or those essential characteristics with respect to the basic requirements for construction works;
  - ii) the nature of the product;
  - iii) the effect of the variability of the essential characteristics of the construction product during the expected life of the product; and
  - iv) the susceptibility to defects in the product's manufacture.

2 Regulations under this Article or Article 26(3) are to be made by statutory instrument.

3 Such regulations may:

- a contain incidental, supplemental, consequential and transitional provision and savings;
- b make different provision for different purposes.

4 A statutory instrument containing regulations made under this Article or Article 26(3) is subject to annulment in pursuance of a resolution of either House of Parliament.]



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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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### Textual Amendments

**F237** Art. 60 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 62** (with Sch. 1 paras. 70, 76) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### *F238* Article 61

## Exercise of the delegation

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### Textual Amendments

**F238** Arts. 61-64 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 63** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### *F238* Article 62

## Revocation of the delegation

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### Textual Amendments

**F238** Arts. 61-64 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 63** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### *F238* Article 63

## Objections to delegated acts

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### Textual Amendments

**F238** Arts. 61-64 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 63** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### *F238* Article 64

## Committee

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

**F238** Arts. 61-64 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 63** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### Article 65

#### Repeal

- 1 Directive 89/106/EEC is repealed.
- 2 References to the repealed Directive shall be construed as references to this Regulation.

### Article 66

#### Transitional provisions

- 1 Construction products which have been placed on the market in accordance with Directive 89/106/EEC before 1 July 2013 shall be deemed to comply with this Regulation.

<sup>F239</sup>2 .....

<sup>F239</sup>3 .....

<sup>F239</sup>4 .....

### Textual Amendments

**F239** Art. 66(2)-(4) omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 64** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

### <sup>F240</sup>Article 67

#### Reporting by the Commission

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### Textual Amendments

**F240** Art. 67 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 65** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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*F241* Article 68

**Entry into force**

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**Textual Amendments**

**F241** Art. 68 omitted (31.12.2020) by virtue of [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 65** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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## ANNEX I

### BASIC REQUIREMENTS FOR CONSTRUCTION WORKS

Construction works as a whole and in their separate parts must be fit for their intended use, taking into account in particular the health and safety of persons involved throughout the life cycle of the works. Subject to normal maintenance, construction works must satisfy these basic requirements for construction works for an economically reasonable working life.

#### 1. Mechanical resistance and stability

The construction works must be designed and built in such a way that the loadings that are liable to act on them during their constructions and use will not lead to any of the following:

- (a) collapse of the whole or part of the work;
- (b) major deformations to an inadmissible degree;
- (c) damage to other parts of the construction works or to fittings or installed equipment as a result of major deformation of the load-bearing construction;
- (d) damage by an event to an extent disproportionate to the original cause.

#### 2. Safety in case of fire

The construction works must be designed and built in such a way that in the event of an outbreak of fire:

- (a) the load-bearing capacity of the construction can be assumed for a specific period of time;
- (b) the generation and spread of fire and smoke within the construction works are limited;
- (c) the spread of fire to neighbouring construction works is limited;
- (d) occupants can leave the construction works or be rescued by other means;
- (e) the safety of rescue teams is taken into consideration.

#### 3. Hygiene, health and the environment

The construction works must be designed and built in such a way that they will, throughout their life cycle, not be a threat to the hygiene or health and safety of workers, occupants or neighbours, nor have an exceedingly high impact, over their entire life cycle, on the environmental quality or on the climate during their construction, use and demolition, in particular as a result of any of the following:

- (a) the giving-off of toxic gas;
- (b) the emissions of dangerous substances, volatile organic compounds (VOC), greenhouse gases or dangerous particles into indoor or outdoor air;
- (c) the emission of dangerous radiation;
- (d) the release of dangerous substances into ground water, marine waters, surface waters or soil;
- (e) the release of dangerous substances into drinking water or substances which have an otherwise negative impact on drinking water;

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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- (f) faulty discharge of waste water, emission of flue gases or faulty disposal of solid or liquid waste;
- (g) dampness in parts of the construction works or on surfaces within the construction works.

#### 4. Safety and accessibility in use

The construction works must be designed and built in such a way that they do not present unacceptable risks of accidents or damage in service or in operation such as slipping, falling, collision, burns, electrocution, injury from explosion and burglaries. In particular, construction works must be designed and built taking into consideration accessibility and use for disabled persons.

#### 5. Protection against noise

The construction works must be designed and built in such a way that noise perceived by the occupants or people nearby is kept to a level that will not threaten their health and will allow them to sleep, rest and work in satisfactory conditions.

#### 6. Energy economy and heat retention

The construction works and their heating, cooling, lighting and ventilation installations must be designed and built in such a way that the amount of energy they require in use shall be low, when account is taken of the occupants and of the climatic conditions of the location. Construction works must also be energy-efficient, using as little energy as possible during their construction and dismantling.

#### 7. Sustainable use of natural resources

The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable and in particular ensure the following:

- (a) reuse or recyclability of the construction works, their materials and parts after demolition;
- (b) durability of the construction works;
- (c) use of environmentally compatible raw and secondary materials in the construction works.

## ANNEX II

### [<sup>F242</sup>PROCEDURE FOR ADOPTING A UK ASSESSMENT DOCUMENT

#### Textual Amendments

**F242** Annex 2 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 66** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 12, **17**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### 1. Request for a UK Technical Assessment

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)*

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When a manufacturer makes a request for a UK Technical Assessment to any TAB for a construction product, and after the manufacturer and the responsible TAB have signed an agreement of commercial secrecy and confidentiality, unless the manufacturer decides otherwise, the manufacturer must submit to the responsible TAB a technical file describing the product, its use as foreseen by the manufacturer and details of the factory production control the manufacturer intends to apply.

## 2. Requirements in relation to relevant TABs

For construction products referred to in Article 21(1)(c) for which there are other relevant TABs, the responsible TAB must within three weeks of the receipt of the technical file:

- a) agree a work programme for the development of the UK Assessment Document with the relevant TABs;
- b) establish a working group of the relevant TABs to develop the UK Assessment Document.

A representative from each relevant TAB must participate in the working group established by the responsible TAB.

## 3. Contract

For construction products referred to in Article 21(1)(c), within 1 month from the receipt of the technical file, a contract must be concluded between the manufacturer and the responsible TAB for the production of the UK Technical Assessment, defining the work programme for drawing up the UK Assessment Document, including:

- the organisation of work between any relevant TABs,
- if applicable, the composition of the working group referred to in section 2.

## 4. Work programme

After the conclusion of the contract with the manufacturer, the responsible TAB must inform the Secretary of State of the work programme for drawing up the UK Assessment Document and the schedule for its execution and indicate the assessment programme. This communication must take place within 3 months of receipt of the request for a UK Technical Assessment.

## 5. The draft UK Assessment Document

The responsible TAB must finalise a draft UK Assessment Document with the working group referred to in section 2 and must share this draft with the parties concerned within 6 months of the date the Secretary of State was informed of the work programme.

## 6. Secretary of State participation

The Secretary of State may participate, as an observer, in all the parts of the execution of the work programme.

## 7. Extension and delay

Any delay in relation to the time limits set in sections 1 to 5 in this Annex must be reported by the responsible TAB to the Secretary of State.

If an extension of the time limits for developing the UK Assessment Document can be justified, notably by the absence of a Secretary of State decision on the applicable system of assessment and verification of constancy of performance for the construction product or by the need to develop a new test method, the Secretary of State is to set an extended time limit.

## 8. Amendments and adoption of a UK Assessment Document

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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The responsible TAB must communicate the draft UK Assessment Document to the manufacturer. The manufacturer has 21 days to provide representations to the responsible TAB. Thereafter, the responsible TAB must:

- a) consider any representations from the manufacturer with the working group referred to in section 2 and agree any changes to the draft UK Assessment Document with that group;
- b) if applicable, inform the manufacturer as to how the manufacturer's reactions have been taken into account;
- c) adopt the draft UK Assessment Document; and
- d) send a copy to the Secretary of State.

If, within 21 days of receipt, the Secretary of State provides observations to the responsible TAB on the draft UK Assessment Document, the responsible TAB, after it and any relevant TABs have been given the opportunity to comment, must amend the draft accordingly and must send a copy of the adopted UK Assessment Document to the manufacturer and to the Secretary of State.

#### 9. Final UK Assessment Document to be published

As soon as the first UK Technical Assessment is issued by the responsible TAB on the basis of the adopted UK Assessment Document, the responsible TAB must adjust the UK Assessment Document, if appropriate, based on experiences gained and with the agreement of any relevant TABs.

The responsible TAB must adopt the final UK Assessment Document and must send a copy of it to the Secretary of State for publication of its reference.

As soon as the UK mark is affixed to the product, the responsible TAB must inform any relevant TABs and all the relevant TABs (including the responsible TAB) must keep the UK Assessment Document publicly available by electronic means.

#### 10. Use of final UK Assessment Document

Once the reference to the final UK Assessment Document is published by the Secretary of State under Article 22, it may be used by any relevant TAB for the purpose of issuing UK Technical Assessments.]

[<sup>F243</sup>ANNEX III

### DECLARATION OF PERFORMANCE

No .....

#### Textual Amendments

**F243** Substituted by [Commission Delegated Regulation \(EU\) No 574/2014 of 21 February 2014 amending Annex III to Regulation \(EU\) No 305/2011 of the European Parliament and of the Council on the model to be used for drawing up a declaration of performance on construction products.](#)

1. Unique identification code of the product-type: .....
2. Intended use/es: .....

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

3. Manufacturer: . . . . .
4. Authorised representative: . . . . .
5. System/s of AVCP: . . . . .
- 6a. [<sup>F244</sup>Designated] standard: . . . . .  
     [<sup>F245</sup>Approved] body/ies: . . . . .
- 6b. [<sup>F246</sup>UK] Assessment Document: . . . . .  
     [<sup>F246</sup>UK] Technical Assessment: . . . . .  
     Technical Assessment Body: . . . . .  
     [<sup>F247</sup>Approved] body/ies: . . . . .
7. Declared performance/s: . . . . .
8. Appropriate Technical Documentation and/or Specific Technical Documentation: . . . . .

The performance of the product identified above is in conformity with the set of declared performance/s. This declaration of performance is issued, in accordance with Regulation (EU) No 305/2011 [<sup>F248</sup>as it has effect in the United Kingdom in respect of Great Britain], under the sole responsibility of the manufacturer identified above.

Signed for and on behalf of the manufacturer by:

[ *name* ] . . . . .

At [ *place* ] . . . . . on [ *date of issue* ] . . . . .

[ *signature* ] . . . . .

#### Textual Amendments

**F244** Word in Annex 3 Point 6a substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, Sch. 1 para. 67(2)(a) (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F245** Word in Annex 3 Point 6a substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, Sch. 1 para. 67(2)(b) (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F246** Word in Annex 3 Point 6b substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, Sch. 1 para. 67(3)(a) (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F247** Word in Annex 3 Point 6b substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, Sch. 1 para. 67(3)(b) (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**F248** Words in Annex 3 Point 8 inserted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, Sch. 1 para. 67(4) (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 13, 17); 2020 c. 1, Sch. 5 para. 1(1)

#### Instructions for drawing up the declaration of performance

1. GENERAL



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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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These instructions aim at guiding the manufacturers when drawing up a declaration of performance compliant with Regulation (EU) No 305/2011 [<sup>F249</sup>as it has effect in the United Kingdom in respect of Great Britain], following the model of this Annex (hereinafter referred to as ‘the model’).

#### Textual Amendments

**F249** Words in Annex 3 para. 1 inserted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 67(5)(a)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 13, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

These instructions are not part of the declarations of performance to be issued by manufacturers and should not be enclosed to these declarations of performance.

When drawing up a declaration of performance, the manufacturer shall:

- (1) reproduce the texts and the headlines of the model which are not indicated between square brackets;
- (2) replace the blank spaces and square brackets by inserting the necessary information.

Manufacturers may also include in the declaration of performance the reference to the website where the copy of the declaration of performance is made available in accordance with Article 7(3) of Regulation (EU) No 305/2011. This may be included after point 8 or in another place where it does not affect the readability and clarity of the mandatory information.

## 2. FLEXIBILITY

Providing that the mandatory information required by Article 6 of Regulation (EU) No 305/2011 is provided in a clear, complete and coherent manner, when drawing up a declaration of performance, it is possible to:

- (1) use a different layout as in the model;
- (2) combine the points of the model by presenting some of them together;
- (3) present the points of the model in a different order or using one or more tables;
- (4) omit some points of the model which are not relevant for the product for which a declaration of performance is drawn up. For example, this is the case since the declaration of performance may be based either on a [<sup>F250</sup>designated] standard or on a [<sup>F251</sup>UK] Technical Assessment issued for the product, rendering the other alternative not applicable. These omissions could also concern the points on the authorised representative or on the use of Appropriate Technical Documentation and the Specific Technical Documentation;
- (5) present the points without numbering them.

#### Textual Amendments

**F250** Word in [Annex 3 para. 2\(4\)](#) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 67(5)(b)(i)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

**F251** Word in Annex 3 para. 2(4) substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, Sch. 1 para. 67(5)(b)(ii) (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

If a manufacturer wishes to issue a single declaration of performance covering different variations of a product-type, at least the following elements need to be listed separately and clearly for every product variation: the number of the declaration of performance, the identification code under point 1 and the declared performances/s under point 7.

### 3. INSTRUCTION FOR THE COMPLETION OF THE FORM

Point of the model	Instruction
Number of the declaration of performance	<p>This is the reference number of the declaration of performance foreseen in Article 9(2) of Regulation (EU) No 305/2011.</p> <p>The choice of the number is left to the manufacturer.</p> <p>This number may be the same as the unique identification code of the product-type indicated under point 1 of the model.</p>
Point 1	<p>Indicate the unique identification code of the product-type referred to in Article 6(2)(a) of Regulation (EU) No 305/2011.</p> <p>In Article 9(2) of Regulation (EU) No 305/2011, the unique identification code determined by the manufacturer to follow the [F<sup>252</sup>UK] marking is linked to the product-type and thus to the set of performance levels or classes of a construction product, as brought forward in the declaration of performance drawn up for it. Moreover, for the recipients of construction products, in particular for their final end users, it is necessary to be able to unequivocally identify this set of performance levels or classes for any given product. Therefore, every construction product, for which a declaration of performance has been drawn up, should be linked by its manufacturer to the respective product-type and a given set of performance levels or classes by the unique identification code, which acts also as the reference mentioned in Article 6(2)(a) of Regulation (EU) No 305/2011.</p>
Point 2	<p>Indicate the intended use, or list the intended uses, as appropriate, of the construction product as foreseen by the manufacturer, in accordance with the applicable harmonised technical specification.</p>

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

Point 3	Indicate the name, the registered trade name or registered trade mark and the contact address of the manufacturer, as required pursuant to Article 11(5) of Regulation (EU) No 305/2011.
Point 4	This point shall be included and filled in only in case an authorised representative has been designated. In such case, indicate the name and the contact address of the authorised representative whose mandate covers the tasks specified in Article 12(2) of Regulation (EU) No 305/2011.
Point 5	Indicate the number of the applicable system or systems of assessment and verification of constancy of performance (AVCP) of the construction product as set out in Annex V to Regulation (EU) No 305/2011. If there are multiple systems, each of them shall be declared.
Points 6a and 6b	<p>Since a manufacturer can draw up a declaration of performance based on either a [F253designated] standard or a [F254UK] Technical Assessment issued for the product, these two different situations presented under points 6a and 6b should be treated as alternative, with only one of them to be applied and filled in in a declaration of performance.</p> <p>In case of point 6a, i.e. when a declaration of performance is based on a [F253designated] standard, indicate all the following:</p> <ul style="list-style-type: none"> <li>(a) the reference number of the [F253designated] standard and its date of issue (dated reference); and</li> <li>(b) the identification number of the [F255approved] body/ies. When providing the name of the [F255approved] body/ies, it is essential that the name is provided in its original language, without translation to other languages.</li> </ul> <p>In case of point 6b, i.e. when a declaration of performance is based on a [F254UK] Technical Assessment issued for the product, indicate all the following:</p> <ul style="list-style-type: none"> <li>(a) the number of the [F254UK] Assessment Document and its date of issue;</li> </ul>

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

	<ul style="list-style-type: none"> <li>(b) the number of the [F254UK] Technical Assessment and its date of issue;</li> <li>(c) the name of the Technical Assessment Body; and</li> <li>(d) the identification number of the [F255approved] body/ies.</li> </ul>
Point 7	<p>Under this point, the declaration of performance shall indicate:</p> <ul style="list-style-type: none"> <li>(a) the list of essential characteristics, as determined in the harmonised technical specifications for the intended use or uses indicated under point 2; and</li> <li>(b) for each essential characteristic, the declared performance, by level or class, or in a description, in relation to this characteristic or, for characteristics for which no performance is declared, the letters ‘NPD’ (No Performance Determined).</li> </ul> <p>This point may be filled up with the use of a table which brings forward the links between the harmonised technical specifications and the systems of assessment and verification of constancy of performance applied respectively to each essential characteristic of the product, as well as the performance in relation to each essential characteristic. The performance shall be declared in a clear and explicit manner. Therefore, the performance cannot be described in the declaration of performance solely by inserting a calculation formula to be applied by the recipients. Furthermore, the levels or classes of performance presented in reference documents shall be reproduced in the declaration of performance itself and thus cannot be expressed solely by inserting references to these documents into the declaration of performance. However, the performance notably of structural behaviour of a construction product may be expressed by referring to the respective production documentation or structural design calculations. In this case, the relevant documents shall be attached to the declaration of performance.</p>
Point 8	This point shall only be included and filled in in a declaration of performance if

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

	<p>Appropriate Technical Documentation and/or Specific Technical Documentation has been used, in accordance with Articles 36 to 38 of Regulation (EU) No 305/2011, in order to indicate the requirements with which the product complies.</p> <p>In such a case, under this point the declaration of performance shall indicate:</p> <p>(a) the reference number of the Specific and/or Appropriate Technical Documentation used, and</p> <p>(b) the requirements with which the product complies.</p>
Signature	Replace the spaces indicated between square brackets by the information indicated and the signature.]

#### Textual Amendments

- F252** Word in Annex 3 para. 3 table substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 67(5)(c)(i)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, **Sch. 1 para. 17**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F253** Word in Annex 3 para. 3 table substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 67(5)(c)(ii)(aa)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, **Sch. 1 para. 17**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F254** Word in Annex 3 para. 3 table substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 67(5)(c)(ii)(bb)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, **Sch. 1 para. 17**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F255** Word in Annex 3 para. 3 table substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 67(5)(c)(ii)(cc)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, **Sch. 1 para. 17**); 2020 c. 1, **Sch. 5 para. 1(1)**

## ANNEX IV

### PRODUCT AREAS AND REQUIREMENTS FOR TABS

Table 1 —

#### PRODUCT AREAS

AREA CODE	PRODUCT AREA
1	PRECAST NORMAL/LIGHTWEIGHT/AUTOCLAVED AERATED CONCRETE PRODUCTS.
2	DOORS, WINDOWS, SHUTTERS, GATES AND RELATED BUILDING HARDWARE.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

3	MEMBRANES, INCLUDING LIQUID APPLIED AND KITS (FOR WATER AND/OR WATER VAPOUR CONTROL).
4	THERMAL INSULATION PRODUCTS. COMPOSITE INSULATING KITS/SYSTEMS.
5	STRUCTURAL BEARINGS. PINS FOR STRUCTURAL JOINTS.
6	CHIMNEYS, FLUES AND SPECIFIC PRODUCTS.
7	GYPSUM PRODUCTS.
8	GEOTEXTILES, GEOMEMBRANES, AND RELATED PRODUCTS.
9	CURTAIN WALLING/CLADDING/STRUCTURAL SEALANT GLAZING.
10	FIXED FIRE FIGHTING EQUIPMENT (FIRE ALARM/DETECTION, FIXED FIREFIGHTING, FIRE AND SMOKE CONTROL AND EXPLOSION SUPPRESSION PRODUCT).
11	SANITARY APPLIANCES.
12	CIRCULATION FIXTURES: ROAD EQUIPMENT.
13	STRUCTURAL TIMBER PRODUCTS/ELEMENTS AND ANCILLARIES.
14	WOOD BASED PANELS AND ELEMENTS.
15	CEMENT, BUILDING LIMES AND OTHER HYDRAULIC BINDERS.
16	REINFORCING AND PRESTRESSING STEEL FOR CONCRETE (AND ANCILLARIES). POST TENSIONING KITS.
17	MASONRY AND RELATED PRODUCTS. MASONRY UNITS, MORTARS, AND ANCILLARIES.
18	WASTE WATER ENGINEERING PRODUCTS.
19	FLOORINGS.
20	STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

21	INTERNAL & EXTERNAL WALL AND CEILING FINISHES. INTERNAL PARTITION KITS.
22	ROOF COVERINGS, ROOF LIGHTS, ROOF WINDOWS, AND ANCILLARY PRODUCTS. ROOF KITS.
23	ROAD CONSTRUCTION PRODUCTS.
24	AGGREGATES.
25	CONSTRUCTION ADHESIVES.
26	PRODUCTS RELATED TO CONCRETE, MORTAR AND GROUT.
27	SPACE HEATING APPLIANCES.
28	PIPES-TANKS AND ANCILLARIES NOT IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.
29	CONSTRUCTION PRODUCTS IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.
30	FLAT GLASS, PROFILED GLASS AND GLASS BLOCK PRODUCTS.
31	POWER, CONTROL AND COMMUNICATION CABLES.
32	SEALANTS FOR JOINTS.
33	FIXINGS.
34	BUILDING KITS, UNITS, AND PREFABRICATED ELEMENTS.
35	FIRE STOPPING, FIRE SEALING AND FIRE PROTECTIVE PRODUCTS. FIRE RETARDANT PRODUCTS.

**Table 2 —**

**REQUIREMENTS FOR TABS**

<b>Competence</b>	<b>Description of competence</b>	<b>Requirement</b>
1. Analysing risks	Identify the possible risks and benefits for the use of innovative construction products in the absence of established/ consolidated technical information regarding their	A TAB shall be established under national law and have legal personality. It shall be independent from the stakeholders and from any particular interests. In addition, a TAB shall have staff with:

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		performance when installed in construction works.	(a)	objectivity and sound technical judgement;
2.	Setting technical criteria	Transform the outcome of the risk analysis into technical criteria for evaluating behaviour and performance of the construction products regarding the fulfilment of applicable national requirements; provide the technical information needed by those participating in the building process as potential users of the construction products (manufacturers, designers, contractors, installers).	(b)	detailed knowledge of the regulatory provisions and other requirements in force in [ <sup>F256</sup> Great Britain], concerning product areas for which it is to be designated;
			(c)	general understanding of construction practice and detailed technical knowledge, concerning product areas for which it is to be designated;
3.	Setting assessment methods	Design and validate appropriate methods (tests or calculations) to assess performance for essential characteristics of construction products, taking into account the current state of the article.	(d)	detailed knowledge of specific risks involved and the technical aspects of the construction process;
			(e)	detailed knowledge of the existing [ <sup>F257</sup> designated] standards and test methods within the product areas for which it is to be designated;
			(f)	appropriate linguistic skills. The remuneration of the TAB personnel shall not depend on the number of the assessments carried out or on the results of such assessments.
4.	Determining the specific factory production control	Understand and evaluate the manufacturing process of the specific product in order to identify appropriate measures ensuring product constancy through the given manufacturing process.		A TAB shall have staff with appropriate knowledge of the relationship between the manufacturing processes and product characteristics related to factory production control.



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5.	Assessing the product	Assess the performance for essential characteristics of construction products on the basis of harmonised methods against harmonised criteria.	In addition to the requirements listed in points 1, 2 and 3, a TAB shall have access to the necessary means and equipment for the assessment of the performance for essential characteristics of construction products within the product areas for which it is to be designated.
6.	General management	Ensure consistency, reliability, objectivity and traceability through the constant application of appropriate management methods.	A TAB shall have: <ul style="list-style-type: none"> <li>(a) a proven record of respect of good administrative behaviour;</li> <li>(b) a policy and the supporting procedures to ensure confidentiality of sensitive information within the TAB and all its partners;</li> <li>(c) a document control system to ensure registration, traceability, maintenance and archiving of all relevant documents;</li> <li>(d) a mechanism for internal audit and management review to ensure the regular monitoring of the compliance with appropriate management methods;</li> <li>(e) a procedure to deal objectively with appeals and complaints.</li> </ul>

#### Textual Amendments

**F256** Word in Annex 4 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 68(a)** (with Sch. 1 para. 70) (as amended by [S.I. 2020/1359](#), reg. 1, Sch. 1 paras. 14, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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**F257** Word in Annex 4 substituted (31.12.2020) by The Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465), reg. 1, **Sch. 1 para. 68(b)** (with Sch. 1 para. 70) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 para. 17); 2020 c. 1, Sch. 5 para. 1(1)

## [<sup>F258</sup>ANNEX V

### ASSESSMENT AND VERIFICATION OF CONSTANCY OF PERFORMANCE

#### Textual Amendments

**F258** Substituted by Commission Delegated Regulation (EU) No 568/2014 of 18 February 2014 amending Annex V to Regulation (EU) No 305/2011 of the European Parliament and of the Council as regards the assessment and verification of constancy of performance of construction products.

#### 1. SYSTEMS OF ASSESSMENT AND VERIFICATION OF CONSTANCY OF PERFORMANCE

The manufacturer shall draw up the declaration of performance and determine the product-type on the basis of the assessments and verifications of constancy of performance carried out under the following systems:

##### 1.1. System 1+

- (a) The manufacturer shall carry out:
- (i) factory production control;
  - (ii) further testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan.
- (b) The [<sup>F259</sup>approved] product certification body shall decide on the issuing, restriction, suspension or withdrawal of the certificate of constancy of performance of the construction product on the basis of the outcome of the following assessments and verifications carried out by that body:
- (i) an assessment of the performance of the construction product carried out on the basis of testing (including sampling), calculation, tabulated values or descriptive documentation of the product;
  - (ii) initial inspection of the manufacturing plant and of factory production control;
  - (iii) continuing surveillance, assessment and evaluation of factory production control;
  - (iv) audit — testing of samples taken by the [<sup>F259</sup>approved] product certification body at the manufacturing plant or at the manufacturer's storage facilities.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

### Textual Amendments

**F259** Word in Annex 5 Point 1 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 69(2)** (with Sch. 1 paras. 70, 75) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

#### 1.2. System 1

- (a) The manufacturer shall carry out:
- (i) factory production control;
  - (ii) further testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan.
- (b) The [<sup>F259</sup>approved] product certification body shall decide on the issuing, restriction, suspension or withdrawal of the certificate of constancy of performance of the construction product on the basis of the outcome of the following assessments and verifications carried out by that body:
- (i) an assessment of the performance of the construction product carried out on the basis of testing (including sampling), calculation, tabulated values or descriptive documentation of the product;
  - (ii) initial inspection of the manufacturing plant and of factory production control;
  - (iii) continuing surveillance, assessment and evaluation of factory production control.

#### 1.3. System 2+

- (a) The manufacturer shall carry out:
- (i) an assessment of the performance of the construction product on the basis of testing (including sampling), calculation, tabulated values or descriptive documentation of that product;
  - (ii) factory production control;
  - (iii) testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan.
- (b) The [<sup>F259</sup>approved] factory production control certification body shall decide on the issuing, restriction, suspension or withdrawal of the certificate of conformity of the factory production control on the basis of the outcome of the following assessments and verifications carried out by that body:
- (i) initial inspection of the manufacturing plant and of factory production control;
  - (ii) continuing surveillance, assessment and evaluation of factory production control.

#### 1.4. System 3

- (a) The manufacturer shall carry out factory production control.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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- (b) The [F<sup>259</sup>approved] laboratory shall assess the performance on the basis of testing (based on sampling carried out by the manufacturer), calculation, tabulated values or descriptive documentation of the construction product.

#### 1.5. System 4

- (a) The manufacturer shall carry out:
- (i) an assessment of the performance of the construction product on the basis of testing, calculation, tabulated values or descriptive documentation of that product;
  - (ii) factory production control.
- (b) No tasks require the intervention of [F<sup>259</sup>approved] bodies.

#### 1.6. Construction products for which a [F<sup>260</sup>UK] Technical Assessment has been issued

[F<sup>261</sup>Approved] bodies undertaking tasks under Systems 1+, 1 and 3 as well as manufacturers undertaking tasks under Systems 2+ and 4 shall consider the [F<sup>260</sup>UK] Technical Assessment issued for the construction product in question as the assessment of the performance of that product. [F<sup>261</sup>Approved] bodies and manufacturers shall therefore not undertake the tasks referred to in points 1.1.(b)(i), 1.2.(b)(i), 1.3.(a)(i), 1.4.(b) and 1.5.(a)(i) respectively.

##### Textual Amendments

**F261** Word in Annex 5 Point 1.6 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 69(3)(b)** (with Sch. 1 paras. 70, 75) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

##### Textual Amendments

**F260** Word in Annex 5 Point 1.6 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 69(3)(a)** (with Sch. 1 paras. 70, 75) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

## 2. BODIES INVOLVED IN THE ASSESSMENT AND VERIFICATION OF CONSTANCY OF PERFORMANCE

With respect to the function of [F<sup>262</sup>approved] bodies involved in the assessment and verification of constancy of performance for construction products, distinction shall be made between:

- (1) product certification body: a body [F<sup>262</sup>approved], in accordance with Chapter VII, to carry out constancy of performance certification;
- (2) factory production control certification body: a body [F<sup>262</sup>approved], in accordance with Chapter VII, to carry out factory production control certification;
- (3) laboratory: a body [F<sup>262</sup>approved], in accordance with Chapter VII, to measure, examine, test, calculate or otherwise assess the performance of construction products.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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#### Textual Amendments

**F262** Word in Annex 5 Point 2 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 69(4)** (with Sch. 1 paras. 70, 75) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

3. HORIZONTAL [<sup>F263</sup>APPROVALS]: CASES OF ESSENTIAL CHARACTERISTICS WHERE REFERENCE TO A RELEVANT HARMONISED TECHNICAL SPECIFICATION IS NOT REQUIRED
1. Reaction to fire
  2. Resistance to fire
  3. External fire performance
  4. Acoustic performance
  5. Emissions of dangerous substances.]

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#### Textual Amendments

**F263** Word in Annex 5 Point 3 substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 69(5)** (with Sch. 1 paras. 70, 75) (as amended by S.I. 2020/1359, reg. 1, Sch. 1 paras. 16, 17); 2020 c. 1, **Sch. 5 para. 1(1)**

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council. (See end of Document for details)

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- (1) [OJ C 218, 11.9.2009, p. 15.](#)
- (2) Position of the European Parliament of 24 April 2009 ([OJ C 184 E, 8.7.2010, p. 441](#)), position of the Council at first reading of 13 September 2010 ([OJ C 282 E, 19.10.2010, p. 1](#)), position of the European Parliament of 18 January 2011 (not yet published in the Official Journal) and decision of the Council of 28 February 2011.
- (3) [OJ L 40, 11.2.1989, p. 12.](#)
- (4) [OJ L 218, 13.8.2008, p. 30.](#)
- (5) [OJ L 218, 13.8.2008, p. 82.](#)
- (6) [OJ L 204, 21.7.1998, p. 37.](#)
- (7) [OJ L 396, 30.12.2006, p. 1.](#)
- (8) [OJ L 123, 24.4.1998, p. 1.](#)
- (9) [OJ L 327, 22.12.2000, p. 1.](#)
- (10) [OJ L 312, 22.11.2008, p. 3.](#)
- (11) [OJ L 353, 31.12.2008, p. 1.](#)
- (12) [OJ L 218, 13.8.2008, p. 21.](#)
- (13) [OJ L 184, 17.7.1999, p. 23.](#)
- (14) [OJ L 124, 20.5.2003, p. 36.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EU) No 305/2011 of the European Parliament and of the Council.