

SCHEDULE 2

Regulation 3

Amendments to Schedule 2 to the 2019 Regulations

For Schedule 2 (amendments to the 2013 Regulations) to the 2019 Regulations substitute—

“SCHEDULE 2

Regulation 4

Construction products enforcement rules – Great Britain

Introduction

1. The 2013 Regulations are amended in accordance with paragraphs 2 to 14 of this Schedule.

Insertion of new regulation 1A

2. After regulation 1 insert—

“Application

- 1A. These Regulations apply in England and Wales, and Scotland.”.

Amendments to regulation 2

- 3.—(1) Regulation 2 (interpretation) is amended as follows.
 - (2) In paragraph (1)—
 - (a) in the appropriate places insert the following definitions—

““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;”;

““UK(NI) indication” means 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;”; - (b) for the definition of “enforcement authority” substitute—

““enforcement authority” means any local weights and measures authority;”.
- (3) In paragraph (2), after “the United Kingdom” insert “in respect of Great Britain”;
- (4) Omit paragraph (3).

Amendments to regulation 3

4. In regulation 3(1) (competent authority)—
 - (a) in the words before sub-paragraph (a)—
 - (i) after “for the United Kingdom” insert “in respect of Great Britain”; and
 - (ii) omit “of the 2008 Regulation, as it applies to construction products, and”;
 - (b) in sub-paragraph (b) omit “United Kingdom”.

Substitution of regulation 4

5. For regulation 4 (prohibition on supply etc.) substitute—

“Prohibition on supply etc.

4.—(1) A person who supplies a construction product in respect of Great Britain that is covered by a designated standard or conforms to a UK Technical Assessment that has been issued for it shall be guilty of an offence unless—

- (a) there is supplied with the product in accordance with Article 7 of the 2011 Regulation a declaration of performance for the product drawn up in accordance with Articles 4 and 6 of the 2011 Regulation; and
- (b) the product has affixed to it the UK marking in accordance with Article 8(1) of the 2011 Regulation.

(2) Paragraph (1) does not apply in the case of a product that is subject to one or more of the derogations in Article 5 of the 2011 Regulation.

(3) Paragraph (1) does not apply where—

- (a) Article 16A(2) of the 2011 Regulation applies;
- (b) there is supplied with the product in accordance with Article 7 of the 2011 Regulation (as modified by Article 16A(3) of that Regulation) a declaration of performance for the product drawn up in accordance with Articles 4 and 6 of the EU Construction Products Regulation; and
- (c) the product has affixed to it—
 - (i) the CE marking; or
 - (ii) the CE marking accompanied by the UK(NI) indication,in accordance with Article 8(2) of the EU Construction Products Regulation.

(4) A person who supplies a construction product in respect of Great Britain to which the UK marking has been affixed in breach of any provision of Article 8 or 9 of the 2011 Regulation shall be guilty of an offence.

(5) A person who supplies a construction product in respect of Great Britain to which—

- (a) the CE marking; or
- (b) the CE marking and accompanying UK(NI) indication,

has been affixed in breach of any provision of Article 8 or 9 of the EU Construction Products Regulation shall be guilty of an offence.

(6) A person guilty of an offence under this regulation shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.”.

Amendment to regulation 7

6. Omit regulation 7(4)(b) (ground for further suspension notice).

Amendments to regulation 8

7. In regulation 8 (forfeiture)—

- (a) in the heading omit “and Northern Ireland”;
- (b) in paragraph (1) omit “or Northern Ireland”;

- (c) in paragraph (5)—
 - (i) omit “or Northern Ireland”;
 - (ii) omit sub-paragraph (b);
 - (iii) omit “or Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (cases stated by magistrates’ courts)”.

Amendment to regulation 14

- 8. In regulation 14 (enforcement) omit paragraph (3).

Amendment to regulation 17

- 9. In regulation 17 (provisions supplemental to regulation 16) omit paragraph (7).

Amendments to regulation 19

- 10. In regulation 19 (condition for an order requiring products to be released)—
 - (a) in paragraph (2)(a) omit “or Northern Ireland”;
 - (b) in paragraph (3) omit sub-paragraph (b);
 - (c) in paragraph (4)—
 - (i) omit “or Northern Ireland”;
 - (ii) omit sub-paragraph (b);
 - (iii) omit “or Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (cases stated by magistrates’ courts)”.

Amendment to regulation 22

- 11. In regulation 22—
 - (a) in paragraph (3)(b)(iii) (exception to the restriction on the disclosure of information) for “an” substitute “a retained”;
 - (b) in paragraph (6), in the definition of “relevant person”, omit “or Northern Ireland department” and “or, in Northern Ireland, any district council”.

Amendment to regulation 26

- 12. In regulation 26, omit paragraph (3).

Amendments to Schedule 1

13.—(1) Schedule 1 (grounds for service of notices in relation to the 2008 Regulation and the 2011 Regulation) is amended as follows.

- (2) In paragraph 2(b), (c), (e) and (f), omit “national”.
- (3) In paragraph 4, after “Article 29(1)” delete the explanatory text in brackets.
- (4) In paragraph 5 after “Article 29(2)” delete the explanatory text in brackets.
- (5) In paragraph 6—
 - (a) in sub-paragraph (a), after “Article 56(1)” delete the explanatory text in brackets;
 - (b) in sub-paragraph (b), omit “or (8)” and the “or” at the end;
 - (c) at the end of sub-paragraph (c), for the full stop substitute “; or”;

Status: This is the original version (as it was originally made).

- (d) after sub-paragraph (c), insert—
 - “(d) Article 59B(2) (other non-compliance in relation to the EU Construction Products Regulation) of the 2011 Regulation.”.
- (6) Omit paragraph 7.
- (7) In paragraph 8, after “(formal non-compliance)” insert “or 59A(2) (formal non-compliance in relation to the EU Construction Products Regulation)”.

Amendments to Schedule 2

14. In Schedule 2 (suspension notices)—

- (a) in paragraph 6 omit “or Northern Ireland”;
- (b) in paragraph 7—
 - (i) omit “or Northern Ireland”;
 - (ii) at the end of sub-paragraph (a), insert “and”;
 - (iii) at the end of sub-paragraph (b), for “; and” substitute a full stop;
 - (iv) omit sub-paragraph (c);
- (c) in paragraph 8—
 - (i) at the end of sub-paragraph (a), insert “and”;
 - (ii) at the end of sub-paragraph (b), for “; and” substitute a full stop;
 - (iii) omit sub-paragraph (c);
- (d) in paragraph 9—
 - (i) omit “or Northern Ireland”;
 - (ii) omit sub-paragraph (b);
 - (iii) omit “or Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (cases stated by magistrates’ courts)”.
- (e) in paragraph 11—
 - (i) at the end of sub-paragraph (a), for the semi-colon substitute a full stop;
 - (ii) omit sub-paragraphs (b) and (c).

Amendments to Schedule 3

15. In Schedule 3 (prohibition notices), in paragraph 7—

- (a) at the end of sub-paragraph (a), for the semi-colon substitute a full stop;
- (b) omit sub-paragraphs (b) and (c).

Amendments to Schedule 4

16. In Schedule 4 (notices to warn), in paragraph 5—

- (a) at the end of sub-paragraph (a), for the semi-colon substitute a full stop;
- (b) omit sub-paragraphs (b) and (c).”.