

ANNEX II

EC DECLARATION OF CONFORMITY
(Full quality assurance system)

1. The manufacturer must ensure application of the quality system approved for the design, manufacture and final inspection of the products concerned, as specified in Section 3 and is subject to audit as laid down in Sections 3.3 and 4 and to Community surveillance as specified in Section 5.
- [^{F12}]. The EC declaration of conformity is the procedure whereby the manufacturer who fulfils the obligations imposed by Section 1 ensures and declares that the products concerned meet the provisions of this Directive which apply to them.

The manufacturer must affix the CE marking in accordance with Article 17 and draw up a written declaration of conformity. This declaration must cover one or more medical devices manufactured, clearly identified by means of product name, product code or other unambiguous reference and must be kept by the manufacturer.]

Textual Amendments

- F1** Substituted by [Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market \(Text with EEA relevance\).](#)

3. Quality system
- 3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body.

The application must include:

- the name and address of the manufacturer and any additional manufacturing site covered by the quality system,
- all the relevant information on the product or product category covered by the procedure,
- a written declaration that no application has been lodged with any other notified body for the same product-related quality system,
- the documentation on the quality system,
- an undertaking by the manufacturer to fulfil the obligations imposed by the quality system approved,
- an undertaking by the manufacturer to keep the approved quality system adequate and efficacious,
- [^{F1}an undertaking by the manufacturer to institute and keep up to date a systematic procedure to review experience gained from devices in the post-production phase, including the provisions referred to in Annex X, and to implement appropriate means to apply any necessary corrective action. This undertaking must include an obligation for the manufacturer to notify the competent authorities of the following incidents immediately on learning of them:]
 - (i) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the instructions for use which might

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lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

- (ii) any technical or medical reason connected with the characteristics or performance of a device leading for the reasons referred to in subparagraph (i) to systematic recall of devices of the same type by the manufacturer.

- 3.2. Application of the quality system must ensure that the products conform to the provisions of this Directive which apply to them at every stage, from design to final inspection. All the elements, requirements and provisions adopted by the manufacturer for his quality system must be documented in a systematic and orderly manner in the form of written policies and procedures such as quality programmes, quality plans, quality manuals and quality records.

[^{F2}It shall include in particular the corresponding documentation, data and records arising from the procedures referred to in point (c).]

Textual Amendments

- F2** Inserted by Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market (Text with EEA relevance).

It shall include in particular an adequate description of:

- (a) the manufacturer's quality objectives;
- (b) the organization of the business and in particular:
 - the organizational structures, the responsibilities of the managerial staff and their organizational authority where quality of design and manufacture of the products is concerned,
 - the methods of monitoring the efficient operation of the quality system and in particular its ability to achieve the desired quality of design and of product, including control of products which fail to conform[^{F1}],
 - [^{F2}where the design, manufacture and/or final inspection and testing of the products, or elements thereof, is carried out by a third party, the methods of monitoring the efficient operation of the quality system and in particular the type and extent of control applied to the third party;]
- (c) [^{F1}the procedures for monitoring and verifying the design of the products, including the corresponding documentation, and in particular:
 - a general description of the product, including any variants planned, and its intended use(s),
 - the design specifications, including the standards which will be applied and the results of the risk analysis, and also a description of the solutions adopted to fulfil the essential requirements which apply to the products if the standards referred to in Article 5 are not applied in full,
 - the techniques used to control and verify the design and the processes and systematic measures which will be used when the products are being designed,

- if the device is to be connected to other device(s) in order to operate as intended, proof must be provided that it conforms to the essential requirements when connected to any such device(s) having the characteristics specified by the manufacturer,
 - a statement indicating whether or not the device incorporates, as an integral part, a substance or a human blood derivative referred to in section 7.4 of Annex I and the data on the tests conducted in this connection required to assess the safety, quality and usefulness of that substance or human blood derivative, taking account of the intended purpose of the device,
 - a statement indicating whether or not the device is manufactured utilising tissues of animal origin as referred to in Commission Directive 2003/32/EC⁽¹⁾,
 - the solutions adopted as referred to in Annex I, Chapter I, Section 2,
 - the pre-clinical evaluation,
 - the clinical evaluation referred to in Annex X,
 - the draft label and, where appropriate, instructions for use;]
- (d) the inspection and quality assurance techniques at the manufacturing stage and in particular:
- the processes and procedures which will be used, particularly as regards sterilization, purchasing and the relevant documents,
 - the product identification procedures drawn up and kept up to date from drawings, specifications or other relevant documents at every stage of manufacture;
- (e) the appropriate tests and trials which will be carried out before, during and after manufacture, the frequency with which they will take place, and the test equipment used; it must be possible to trace back the calibration of the test equipment adequately.
- 3.3. The notified body must audit the quality system to determine whether it meets the requirements referred to in Section 3.2. It must presume that quality systems which implement the relevant harmonized standards conform to these requirements.

[^{F1}The assessment team must include at least one member with past experience of assessments of the technology concerned. The assessment procedure must include an assessment, on a representative basis, of the documentation of the design of the product(s) concerned, an inspection on the manufacturer's premises and, in duly substantiated cases, on the premises of the manufacturer's suppliers and/or subcontractors to inspect the manufacturing processes.]

The decision is notified to the manufacturer. It must contain the conclusions of the inspection and a reasoned assessment.

- 3.4. The manufacturer must inform the notified body which approved the quality system of any plan for substantial changes to the quality system or the product-range covered. The notified body must assess the changes proposed and verify whether after these changes the quality system still meets the requirements referred to in Section 3.2. It must notify the manufacturer of its decision. This decision must contain the conclusions of the inspection and a reasoned assessment.
4. Examination of the design of the product
- 4.1. In addition to the obligations imposed by Section 3, the manufacturer must lodge with the notified body an application for examination of the design dossier relating to the

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product which he plans to manufacture and which falls into the category referred to in Section 3.1.

- 4.2. The application must describe the design, manufacture and performances of the product in question. It must include the documents needed to assess whether the product conforms to the requirements of this Directive, as referred to in Section 3.2 (c).
- 4.3. The notified body must examine the application and, if the product conforms to the relevant provisions of this Directive, issue the application with an EC design-examination certificate. The notified body may require the application to be completed by further tests or proof to allow assessment of conformity with the requirements of the Directive. The certificate must contain the conclusions of the examination, the conditions of validity, the data needed for identification of the approved design, where appropriate, a description of the intended purpose of the product.

[^{F1}In the case of devices referred to in Annex I, Section 7.4, second paragraph, the notified body shall, as regards the aspects referred to in that section, consult one of the competent authorities designated by the Member States in accordance with Directive 2001/83/EC or the EMEA before taking a decision. The opinion of the competent national authority or the EMEA must be drawn up within 210 days after receipt of valid documentation. The scientific opinion of the competent national authority or the EMEA must be included in the documentation concerning the device. The notified body will give due consideration to the views expressed in this consultation when making its decision. It will convey its final decision to the competent body concerned.

In the case of devices referred to in Annex I, Section 7.4, third paragraph, the scientific opinion of the EMEA must be included in the documentation concerning the device. The opinion of the EMEA must be drawn up within 210 days after receipt of valid documentation. The notified body will give due consideration to the opinion of the EMEA when making its decision. The notified body may not deliver the certificate if the EMEA's scientific opinion is unfavourable. It will convey its final decision to the EMEA.

In the case of devices manufactured utilising tissues of animal origin as referred to in Directive 2003/32/EC, the notified body must follow the procedures referred to in that Directive.]

- 4.4. Changes to the approved design must receive further approval from the notified body which issued the EC design-examination certificate wherever the changes could affect conformity with the essential requirements of the Directive or with the conditions prescribed for use of the product. The applicant shall inform the notified body which issued the EC design-examination certificate of any such changes made to the approved design. This additional approval must take the form of a supplement to the EC design-examination certificate.
5. Surveillance
 - 5.1. The aim of surveillance is to ensure that the manufacturer duly fulfils the obligations imposed by the approved quality system.
 - 5.2. The manufacturer must authorize the notified body to carry out all the necessary inspections and supply it with all relevant information, in particular:
 - the documentation on the quality system,
 - [^{F1}the data stipulated in the part of the quality system relating to design, such as the results of analyses, calculations, tests, the solutions adopted as referred to in Annex I, Chapter I, Section 2, pre-clinical and clinical evaluation, post-market clinical follow-up plan and the results of the post-market clinical follow-up, if applicable, etc..]

- the data stipulated in the part of the quality system relating to manufacture, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
- 5.3. The notified body must periodically carry out appropriate inspections and assessments to make sure that the manufacturer applies the approved quality system and must supply the manufacturer with an assessment report.
- 5.4. In addition, the notified body may pay unannounced visits to the manufacturer. At the time of such visits, the notified body may, where necessary, carry out or ask for tests in order to check that the quality system is working properly. It must provide the manufacturer with an inspection report and, if a test has been carried out, with a test report.
- 6. Administrative provisions
 - 6.1. [^{F1}The manufacturer or his authorised representative must, for a period ending at least five years, and in the case of implantable devices at least 15 years, after the last product has been manufactured, keep at the disposal of the national authorities:]
 - the declaration of conformity,
 - the documentation referred to in the fourth indent of Section 3.1 [^{F2} and in particular the documentation, data and records referred to in the second paragraph of Section 3.2],
 - the changes referred to in Section 3.4,
 - the documentation referred to in Section 4.2, and
 - the decisions and reports from the notified body as referred to in Sections 3.3, 4.3, 4.4, 5.3 and 5.4.
 - ^{F3}6.2.

Textual Amendments

- F3** Deleted by [Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices](#).

- ^{F4}6.3.

Textual Amendments

- F4** Deleted by [Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market \(Text with EEA relevance\)](#).

- [^{F17} Application to devices in Classes IIa and IIb.
 - 7.1. In line with Article 11(2) and (3), this Annex may apply to products in Classes IIa and IIb. Section 4, however, does not apply.
 - 7.2. For devices in Class IIa the notified body shall assess, as part of the assessment in Section 3.3, the technical documentation as described in Section 3.2(c) for at least one representative sample for each device subcategory for compliance with the provisions of this Directive.

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- 7.3. For devices in Class IIb the notified body shall assess, as part of the assessment in Section 3.3, the technical documentation as described in Section 3.2(c) for at least one representative sample for each generic device group for compliance with the provisions of this Directive.
- 7.4. In choosing representative sample(s) the notified body shall take into account the novelty of the technology, similarities in design, technology, manufacturing and sterilisation methods, the intended use and the results of any previous relevant assessments (e.g. with regard to physical, chemical or biological properties) that have been carried out in accordance with this Directive. The notified body shall document and keep available to the competent authority its rationale for the sample(s) taken.
- 7.5. Further samples shall be assessed by the notified body as part of the surveillance assessment referred to in Section 5.]
- [^{F58} Application to the devices referred to Article 1(4a)

Upon completing the manufacture of each batch of devices referred to in Article 1(4a), the manufacturer shall inform the notified body of the release of the batch of devices and send to it the official certificate concerning the release of the batch of human blood derivative used in the device, issued by a State laboratory or a laboratory designated for that purpose by a Member State in accordance with [^{F1}Article 114(2) of Directive 2001/83/EC].]

Textual Amendments

- F5** Inserted by [Directive 2000/70/EC of the European Parliament and of the Council of 16 November 2000 amending Council Directive 93/42/EEC as regards medical devices incorporating stable derivatives of human blood or human plasma.](#)

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- (1) [^{F1}Commission Directive 2003/32/EC of 23 April 2003 introducing detailed specifications as regards the requirements laid down in Council Directive 93/42/EEC with respect to medical devices manufactured utilising tissues of animal origin (OJ L 105, 26.4.2003, p. 18).]

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Textual Amendments

- F1** Substituted by Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market (Text with EEA relevance).