

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)

CHAPTER VIII

MARKET SURVEILLANCE ^{F1}...

Article 56

Procedure to deal ^{F2}... with construction products presenting a risk

1 Where the market surveillance authorities ^{F3}... have taken action pursuant to Article 20 of [^{F4}RAMS] or where they have sufficient reason to believe that a construction product covered by a [^{F5}designated] standard or for which a [^{F6}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 [^{F7}approved] body accordingly, if [^{F8}an approved] body is involved.

Article 21 of [^{F9}RAMS] shall apply to the measures referred to in the second subparagraph of this paragraph.

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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 ^{F11}... measures to prohibit or restrict the making available of the construction product on the ^{F11}... market or to withdraw the construction product from that market or to recall it.

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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, CHAPTER VIII. (See end of Document for details)

F13g

Textual Amendments

- F2** 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)
- F3** 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)**
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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)
- F11** 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)**
- F12** 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)**
- F13** 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)

^{F14} Article 57

Union safeguard procedure

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, CHAPTER VIII. (See end of Document for details)

Textual Amendments

- F14** 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), [^{F15}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.

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Textual Amendments

- F15** 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)**
- F16** 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 [^{F17}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 [^{F18}UK] marking has been affixed in breach of Article 8 or 9;
- b the [^{F19}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;

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e the technical documentation is either not available or not complete.

2 Where the non-compliance referred to in paragraph 1 continues, the [^{F20}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

- F17** 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)**
- F18** 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)**
- F19** 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)**
- F20** 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)**

[^{F21}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 available on the market of the construction product or ensure that it is recalled or withdrawn from the market.]

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, CHAPTER VIII. (See end of Document for details)

Textual Amendments

F21 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)**

[F21] 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

F21 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

F1 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)

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, CHAPTER VIII.