

SCHEDULE 1

Amendments to the 2011 Regulation

PART 8

Amendments to Chapter 7

Amendment to the heading of Chapter 7

38. For the heading of Chapter 7, substitute “Approved Bodies”.

Omission of Article 39

39. Omit Article 39 (notification).

Insertion of new Article 39A

40. After Article 39 (omitted by paragraph 39), insert—

“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 exit 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 exit 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 exit day:
 - (a) it is to be treated on or after exit day as approved in respect of the same activities in relation to a harmonised standard in respect of which it was notified immediately before exit day where that standard becomes designated under Article 18B(2);
 - (b) any horizontal notification which was in force immediately before exit 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 exit day as a horizontal approval under this Regulation.”.

Amendments to Article 40

41.—(1) Article 40 (notifying authorities) is amended as follows.

(2) For the heading, substitute “Assessment, approval and monitoring of approved bodies”.

(3) In paragraph 1—

- (a) for “Member States shall designate a notifying authority that” substitute “The Secretary of State”;

Status: This is the original version (as it was originally made).

- (b) for “notification” substitute “approval”;
 - (c) for “notified” substitute “approved”.
- (4) In paragraph 2—
- (a) for “Member States” substitute “The Secretary of State”
 - (b) for “their national accreditation bodies within the meaning of, and in accordance with, Regulation (EC) No 765/2008” substitute “the UK national accreditation body”.
 - (c) For paragraph 3, substitute—
 - “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.”.
- (5) In paragraph 4, for “notifying authority” substitute “Secretary of State”.

Omission of Articles 41 and 42

42. Omit Articles 41 (requirements relating to notifying authorities) and 42 (information obligation for Member States).

Amendments to Article 43

- 43.**—(1) Article 43 (requirements for notified bodies) is amended as follows.
- (2) In the heading, for “notified” substitute “approved”.
 - (3) In paragraph 1, for “For the purposes of notification, a notified” substitute “An approved”.
 - (4) In paragraph 2—
 - (a) for “A notified” substitute “An approved”;
 - (b) for “under national law” substitute “in the United Kingdom”;
 - (5) In paragraphs 3 to 6—
 - (a) for “a notified”, in each place it occurs, substitute “an approved”;
 - (b) for “notified”, in each place it occurs (except in the words substituted by paragraph (a)), substitute “approved”.
 - (6) In paragraph 7—
 - (a) for “notified”, in both places, substitute “approved”;

- (b) in point (c), for “harmonised” substitute “designated.
- (7) In paragraph 8, for “notified”, in both places, substitute “approved”.
- (8) For paragraph 9, substitute—
 - “9. An approved body must have adequate liability insurance in respect of its activities.”.
- (9) In paragraph 10—
 - (a) for “notified” substitute “approved”;
 - (b) for the words from “the competent” to the end of the sentence substitute “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.”.
- (10) In paragraph 11—
 - (a) for “A notified” substitute “An approved”;
 - (b) for “notified”, in the second place it occurs, substitute “approved”.

Amendments to Article 44

- 44. In Article 44 (presumption of conformity)—
 - (a) for “A notified” substitute “An approved”;
 - (b) for “harmonised”, in both places, substitute “designated”;
 - (c) omit the words from “, the references” to “*Union*,”.

Amendments to Article 45

- 45.—(1) Article 45 (subsidiaries and subcontractors of notified bodies) is amended as follows.
- (2) In the heading, for “notified” substitute “approved”.
- (3) In paragraph 1—
 - (a) for “a notified” substitute “an approved”;
 - (b) for “notifying authority” substitute “Secretary of State”.
- (4) In paragraph 2, for “notified” substitute “approved”.
- (5) In paragraph 4—
 - (a) for “notified” substitute “approved”;
 - (b) for “notifying authority” substitute “Secretary of State”.

Amendments to Article 46

- 46. In Article 46 (use of facilities outside the testing laboratory of the notified body), for “notified”, in each place it occurs (including the heading) substitute “approved”.

Amendments to Article 47

- 47.—(1) Article 47 (applications for notification) is amended as follows.
- (2) In the heading, for “notification” substitute “approval”.
- (3) In paragraph 1—
 - (a) for “notification” substitute “approval”;
 - (b) for the words from “notifying” to the end of the sentence substitute “Secretary of State.”.
- (4) In paragraph 2—

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

- (a) after “issued by the” insert “UK”;
 - (b) omit “within the meaning of Regulation (EC) No 765/2008”.
- (5) In paragraph 3, for “notifying authority” substitute “Secretary of State”.

Amendments to Article 48

- 48.**—(1) Article 48 (notification procedure) is amended as follows.
- (2) In the heading, for “Notification” substitute “Approval”.
 - (3) In paragraph 1—
 - (a) for “Notifying authorities” substitute “The Secretary of State”;
 - (b) for “notify” substitute “approve”.
 - (4) Omit paragraph 2.
 - (5) In paragraph 3, for “notification” substitute “approval”.
 - (6) Omit paragraphs 4 to 6.

Amendments to Article 49

- 49.**—(1) Article 49 (identification numbers and lists of notified bodies) is amended as follows.
- (2) In the heading, for “notified” substitute “approved”.
 - (3) In paragraph 1—
 - (a) for “Commission” substitute “Secretary of State”;
 - (b) for “notified”, in both places, substitute “approved”;
 - (c) for “Union acts” substitute “relevant enactments”.
 - (4) In paragraph 2—
 - (a) in the first subparagraph—
 - (i) for “Commission”, in the first place it occurs, substitute “Secretary of State”;
 - (ii) for “bodies notified under this Regulation” substitute “approved bodies”;
 - (iii) for the words from “notified, notably” to the end of the sentence substitute “approved.”;
 - (b) in the second subparagraph, for “Commission” substitute “Secretary of State”.
 - (5) After paragraph 2, insert—

3. The Secretary of State may authorise the UK national accreditation body to compile and maintain the list referred to in paragraph 2.”.

Substitution of Article 50

- 50.** For Article 50 (changes to the notification), substitute—

“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.”.

Omission of Article 51

51. Omit Article 51 (challenge of the competence of notified bodies).

Amendments to Article 52

52.—(1) Article 52 (operational obligations for notified bodies) is amended as follows.

(2) In the heading and paragraphs 1 and 2, for “notified”, in each place it occurs, substitute “approved”.

(3) In paragraphs 3 and 4, for “a notified” substitute “an approved”.

(4) In paragraph 5, for “notified” substitute “approved”.

Amendments to Article 53

53.—(1) Article 53 (information obligations for notified bodies) is amended as follows.

(2) In the heading, for “notified” substitute “approved”.

(3) In paragraph 1—

(a) in the words before point (a)—

(i) for “Notified” substitute “Approved”;

(ii) for “notifying authority” substitute “Secretary of State”;

(b) in points (b) and (d), for “notification” substitute “approval”.

(4) In paragraph 2, for “notified”, in both places, substitute “approved”.

Omission of Article 54

54. Omit Article 54 (exchange of experience).

Substitution of Article 55

55. For Article 55 (coordination of notified bodies) substitute—

“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.”.