

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 VII

NOTIFYING AUTHORITIES AND NOTIFIED BODIES

Article 43

Requirements for notified bodies

1 For the purposes of notification, a notified body shall meet the requirements set out in paragraphs 2 to 11.

2 A notified body shall be established under national law and have legal personality.

3 A notified 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 A notified 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 notified body or the use of products for personal purposes.

A notified 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 notified. This shall, in particular, apply to consultancy services.

A notified 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 A notified 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

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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 A notified 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 notified, whether those tasks are carried out by the notified 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 notified, the notified 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 a notified 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 of the product technology in question and the mass or serial nature of the production process.

A notified body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it is notified 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 notified, 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 notified;
- 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 harmonised 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 notified body, its top-level management and assessment personnel shall be guaranteed.

The remuneration of the notified 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.

9 A notified body shall take out liability insurance unless liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the assessment and/or the verification performed.

10 The personnel of the notified 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

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the competent administrative authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11 A notified body shall participate in, or ensure that its assessment personnel is informed of, the relevant standardisation activities and the activities of the notified 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.

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