

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

### [<sup>F1</sup>APPROVED BODIES]

#### *Article 43*

#### **Requirements for [<sup>F1</sup>approved] bodies**

- 1 [<sup>F2</sup>An approved] body shall meet the requirements set out in paragraphs 2 to 11.
- 2 [<sup>F3</sup>An approved] body shall be established [<sup>F4</sup>in the United Kingdom] and have legal personality.
- 3 [<sup>F5</sup>An approved] 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 [<sup>F5</sup>An approved] 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 [<sup>F6</sup>approved] body or the use of products for personal purposes.

[<sup>F5</sup>An approved] 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 [<sup>F6</sup>approved]. This shall, in particular, apply to consultancy services.

[<sup>F5</sup>An approved] 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 [<sup>F5</sup>An approved] 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

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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, Article 43. (See end of Document for details)*

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judgement or the 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 [F<sup>5</sup>An approved] 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 [F<sup>6</sup>approved], whether those tasks are carried out by the [F<sup>6</sup>approved] 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 [F<sup>6</sup>approved], the [F<sup>6</sup>approved] 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 [F<sup>5</sup>an approved] 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.

[F<sup>5</sup>An approved] body shall have the means necessary to perform the technical and administrative tasks connected with the activities for which it is [F<sup>6</sup>approved] 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 [F<sup>7</sup>approved], 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 [F<sup>7</sup>approved];
- 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 [F<sup>8</sup>designated] 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 [F<sup>9</sup>approved] body, its top-level management and assessment personnel shall be guaranteed.

The remuneration of the [F<sup>9</sup>approved] 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.

[F<sup>10</sup>9 An approved body must have adequate liability insurance in respect of its activities.]

10 The personnel of the [F<sup>11</sup>approved] 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 [F<sup>12</sup>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.] Proprietary rights shall be protected.

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11 <sup>[F13]</sup>An approved] body shall participate in, or ensure that its assessment personnel is informed of, the relevant standardisation activities and the activities of the <sup>[F14]</sup>approved] 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.

### Textual Amendments

- F1** Word in Art. 43 heading substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(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)
- F2** Words in Art. 43(1) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(3)** (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. 43(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(4)(a)** (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)
- F4** Words in Art. 43(2) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(4)(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)
- F5** Words in Art. 43(3)-(6) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(5)(a)** (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)
- F6** Word in Art. 43(3)-(6) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(5)(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)
- F7** Word in Art. 43(7) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(6)(a)** (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)
- F8** Word in Art. 43(7)(c) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(6)(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)
- F9** Word in Art. 43(8) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(7)** (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)
- F10** Art. 43(9) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(8)** (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** Word in Art. 43(10) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(9)(a)** (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)
- F12** Words in Art. 43(10) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(9)(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)
- F13** Words in Art. 43(11) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(10)(a)** (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** Word in Art. 43(11) substituted (31.12.2020) by [The Construction Products \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/465\)](#), reg. 1, **Sch. 1 para. 43(10)(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)

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**Changes to legislation:**

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