

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 II

DECLARATION OF PERFORMANCE AND CE MARKING

Article 4

Declaration of performance

1 When a construction product is covered by a harmonised standard or conforms to a European Technical Assessment which has been issued for it, the manufacturer shall draw up a declaration of performance when such a product is placed on the market.

2 When a construction product is covered by a harmonised standard or conforms to a European Technical Assessment which has been issued for it, information in any form about its performance in relation to the essential characteristics, as defined in the applicable harmonised technical specification, may be provided only if included and specified in the declaration of performance except where, in accordance with Article 5, no declaration of performance has been drawn up.

3 By drawing up the declaration of performance, the manufacturer shall assume responsibility for the conformity of the construction product with such declared performance. In the absence of objective indications to the contrary, Member States shall presume the declaration of performance drawn up by the manufacturer to be accurate and reliable.

Article 5

Derogations from drawing up a declaration of performance

By way of derogation from Article 4(1) and in the absence of Union or national provisions requiring the declaration of essential characteristics where the construction products are intended to be used, a manufacturer may refrain from drawing up a declaration of performance when placing a construction product covered by a harmonised standard on the market where:

- (a) the construction product is individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work, by a manufacturer who is responsible for the safe incorporation of the product into the construction works, in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules;
- (b) the construction product is manufactured on the construction site for its incorporation in the respective construction works in compliance with the applicable national rules and under the responsibility of those responsible for the safe execution of the construction works designated under the applicable national rules; or

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- (c) the construction product is manufactured in a traditional manner or in a manner appropriate to heritage conservation and in a non-industrial process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.

Article 6

Content of the declaration of performance

- 1 The declaration of performance shall express the performance of construction products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications.
- 2 The declaration of performance shall contain, in particular, the following information:
 - a the reference of the product-type for which the declaration of performance has been drawn up;
 - b the system or systems of assessment and verification of constancy of performance of the construction product, as set out in Annex V;
 - c the reference number and date of issue of the harmonised standard or the European Technical Assessment which has been used for the assessment of each essential characteristic;
 - d where applicable, the reference number of the Specific Technical Documentation used and the requirements with which the manufacturer claims the product complies.
- 3 The declaration of performance shall in addition contain:
 - a the intended use or uses for the construction product, in accordance with the applicable harmonised technical specification;
 - b the list of essential characteristics, as determined in the harmonised technical specification for the declared intended use or uses;
 - c the performance of at least one of the essential characteristics of the construction product, relevant for the declared intended use or uses;
 - d where applicable, the performance of the construction product, by levels or classes, or in a description, if necessary based on a calculation in relation to its essential characteristics determined in accordance with Article 3(3);
 - e the performance of those essential characteristics of the construction product which are related to the intended use or uses, taking into consideration the provisions in relation to the intended use or uses where the manufacturer intends the product to be made available on the market;
 - f for the listed essential characteristics for which no performance is declared, the letters 'NPD' (No Performance Determined);
 - g when a European Technical Assessment has been issued for that product, the performance, by levels or classes, or in a description, of the construction product in relation to all essential characteristics contained in the corresponding European Technical Assessment.
- 4 The declaration of performance shall be drawn up using the model set out in Annex III.
- 5 The information referred to in Article 31 or, as the case may be, in Article 33 of Regulation (EC) No 1907/2006, shall be provided together with the declaration of performance.

Article 7

Supply of the declaration of performance

1 A copy of the declaration of performance of each product which is made available on the market shall be supplied either in paper form or by electronic means.

However, where a batch of the same product is supplied to a single user, it may be accompanied by a single copy of the declaration of performance either in paper form or by electronic means.

2 A paper copy of the declaration of performance shall be supplied if the recipient requests it.

3 By way of derogation from paragraphs 1 and 2, the copy of the declaration of performance may be made available on a web site in accordance with conditions to be established by the Commission by means of delegated acts in accordance with Article 60. Such conditions shall, inter alia, guarantee that the declaration of performance remains available at least for the period referred to in Article 11(2).

4 The declaration of performance shall be supplied in the language or the languages required by the Member State where the product is made available.

Article 8

General principles and use of CE marking

1 The general principles set out in Article 30 of Regulation (EC) No 765/2008 shall apply to the CE marking.

2 The CE marking shall be affixed to those construction products for which the manufacturer has drawn up a declaration of performance in accordance with Articles 4 and 6.

If a declaration of performance has not been drawn up by the manufacturer in accordance with Articles 4 and 6, the CE marking shall not be affixed.

By affixing or having affixed the CE marking, manufacturers indicate that they take responsibility for the conformity of the construction product with the declared performance as well as the compliance with all applicable requirements laid down in this Regulation and in other relevant Union harmonisation legislation providing for its affixing.

The rules for affixing the CE marking provided for in other relevant Union harmonisation legislation shall apply without prejudice to this paragraph.

3 For any construction product covered by a harmonised standard, or for which a European Technical Assessment has been issued, the CE marking shall be the only marking which attests conformity of the construction product with the declared performance in relation to the essential characteristics, covered by that harmonised standard or by the European Technical Assessment.

In this respect, Member States shall not introduce any references or shall withdraw any references in national measures to a marking attesting conformity with the declared

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performance in relation to the essential characteristics covered by a harmonised standard other than the CE marking.

4 A Member State shall not prohibit or impede, within its territory or under its responsibility, the making available on the market or the use of construction products bearing the CE marking, when the declared performances correspond to the requirements for such use in that Member State.

5 A Member State shall ensure that the use of construction products bearing the CE marking shall not be impeded by rules or conditions imposed by public bodies or private bodies acting as a public undertaking, or acting as a public body on the basis of a monopoly position or under a public mandate, when the declared performances correspond to the requirements for such use in that Member State.

6 The methods used by the Member States in their requirements for construction works, as well as other national rules in relation to the essential characteristics of construction products, shall be in accordance with harmonised standards.

Article 9

Rules and conditions for the affixing of CE marking

1 The CE marking shall be affixed visibly, legibly and indelibly to the construction product or to a label attached to it. Where this is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging or to the accompanying documents.

2 The CE marking shall be followed by the two last digits of the year in which it was first affixed, the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity, the unique identification code of the product-type, the reference number of the declaration of performance, the level or class of the performance declared, the reference to the harmonised technical specification applied, the identification number of the notified body, if applicable, and the intended use as laid down in the harmonised technical specification applied.

3 The CE marking shall be affixed before the construction product is placed on the market. It may be followed by a pictogram or any other mark notably indicating a special risk or use.

Article 10

Product Contact Points for Construction

1 Member States shall designate Product Contact Points for Construction pursuant to Article 9 of Regulation (EC) No 764/2008.

2 Articles 10 and 11 of Regulation (EC) No 764/2008 shall apply to Product Contact Points for Construction.

3 With regard to the tasks defined in Article 10(1) of Regulation (EC) No 764/2008, each Member State shall ensure that the Product Contact Points for Construction provide information, using transparent and easily understandable terms, on the provisions within its territory aimed at fulfilling basic requirements for construction works applicable for the intended use of each construction product, as provided for in Article 6(3)(e) of this Regulation.

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4 Product Contact Points for Construction shall be able to carry out their functions in a manner that avoids conflicts of interest, particularly in respect of the procedures for obtaining the CE marking.