

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 IV

HARMONISED TECHNICAL SPECIFICATIONS

Article 17

Harmonised standards

1 Harmonised standards shall be established by the European standardisation bodies listed in Annex I to Directive 98/34/EC on the basis of requests (hereinafter referred to as ‘mandates’) issued by the Commission in accordance with Article 6 of that Directive after having consulted the Standing Committee on Construction referred to in Article 64 of this Regulation (hereinafter referred to as ‘Standing Committee on Construction’).

2 Where stakeholders are involved in the process of developing harmonised standards pursuant to this Article, the European standardisation bodies shall ensure that the various categories of stakeholders are in all instances represented in a fair and equitable manner.

3 Harmonised standards shall provide the methods and the criteria for assessing the performance of the construction products in relation to their essential characteristics.

When provided for in the relevant mandate, a harmonised standard shall refer to an intended use of products to be covered by it.

Harmonised standards shall, where appropriate and without endangering the accuracy, reliability or stability of the results, provide methods less onerous than testing for assessing the performance of the construction products in relation to their essential characteristics.

4 The European standardisation bodies shall determine in harmonised standards the applicable factory production control, which shall take into account the specific conditions of the manufacturing process of the construction product concerned.

The harmonised standard shall include technical details necessary for the implementation of the system of assessment and verification of constancy of performance.

5 The Commission shall assess the conformity of harmonised standards established by the European standardisation bodies with the relevant mandates.

The Commission shall publish in the *Official Journal of the European Union* the list of references of harmonised standards which are in conformity with the relevant mandates.

The following shall be indicated for each harmonised standard in the list:

- a references of superseded harmonised technical specifications, if any;
- b date of the beginning of the coexistence period;
- c date of the end of the coexistence period.

The Commission shall publish any updates to that list.

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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 IV. (See end of Document for details)

From the date of the beginning of the coexistence period it shall be possible to use a harmonised standard to make a declaration of performance for a construction product covered by it. National standardisation bodies are under the obligation to transpose the harmonised standards in conformity with Directive 98/34/EC.

Without prejudice to Articles 36 to 38, from the date of the end of the coexistence period, the harmonised standard shall be the only means used for drawing up a declaration of performance for a construction product covered by it.

At the end of the coexistence period, conflicting national standards shall be withdrawn and Member States shall terminate the validity of all conflicting national provisions.

Article 18

Formal objection against harmonised standards

1 When a Member State or the Commission considers that a harmonised standard does not entirely satisfy the requirements set out in the relevant mandate, the Member State concerned or the Commission, after having consulted the Standing Committee on Construction, shall bring the matter before the Committee set up pursuant to Article 5 of Directive 98/34/EC, giving its arguments. That Committee shall, after having consulted the relevant European standardisation bodies deliver its opinion without delay.

2 In the light of the opinion of the Committee set up pursuant to Article 5 of Directive 98/34/EC, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the harmonised standard concerned in the *Official Journal of the European Union*.

3 The Commission shall inform the European standardisation body concerned of its decision and, if necessary, request the revision of the harmonised standard concerned.

Article 19

European Assessment Document

1 Following a request for a European Technical Assessment by a manufacturer, a European Assessment Document shall be drawn up and adopted by the organisation of TABs for any construction product not covered or not fully covered by a harmonised standard, for which the performance in relation to its essential characteristics cannot be entirely assessed according to an existing harmonised standard, because, inter alia:

- a the product does not fall within the scope of any existing harmonised standard;
- b for at least one essential characteristic of that product, the assessment method provided for in the harmonised standard is not appropriate; or
- c the harmonised standard does not provide for any assessment method in relation to at least one essential characteristic of that product.

2 The procedure for adopting the European Assessment Document shall respect the principles set out in Article 20 and shall comply with Article 21 and Annex II.

3 The Commission may adopt delegated acts in accordance with Article 60 to amend Annex II and establish supplementary procedural rules for the development and adoption of a European Assessment Document.

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4 Where appropriate, the Commission, after having consulted the Standing Committee on Construction, shall take existing European Assessment Documents as a basis for the mandates to be issued pursuant to Article 17(1) with a view to developing harmonised standards as regards the products referred to in paragraph 1 of this Article.

Article 20

Principles for the development and adoption of European Assessment Documents

- 1 The procedure for developing and adopting European Assessment Documents shall:
 - a be transparent to the manufacturer concerned;
 - b define appropriate mandatory time limits in order to avoid unjustified delay;
 - c take appropriately into account the protection of commercial secrecy and confidentiality;
 - d allow for adequate participation by the Commission;
 - e be cost-effective for the manufacturer; and
 - f ensure sufficient collegiality and coordination amongst TABs designated for the product in question.
- 2 The TABs shall, together with the organisation of TABs, bear the full costs of the development and adoption of European Assessment Documents.

Article 21

Obligations of the TAB receiving a request for a European Technical Assessment

- 1 The TAB receiving a request for a European Technical Assessment shall inform the manufacturer if the construction product is covered, fully or partially, by a harmonised technical specification as follows:
 - a where the product is fully covered by a harmonised standard, the TAB shall inform the manufacturer that, in accordance with Article 19(1), a European Technical Assessment cannot be issued;
 - b where the product is fully covered by a European Assessment Document, the TAB shall inform the manufacturer that such a document will be used as the basis for the European Technical Assessment to be issued;
 - c where the product is not covered, or not fully covered, by any harmonised technical specification, the TAB shall apply the procedures set out in Annex II or those established in accordance with Article 19(3).
- 2 In the cases referred to in points (b) and (c) of paragraph 1, the TAB shall inform the organisation of TABs and the Commission of the content of the request and of the reference to a relevant Commission decision for assessment and verification of constancy of performance, which the TAB intends to apply for that product, or of the lack of such a Commission decision.
- 3 If the Commission considers that an appropriate decision for assessment and verification of constancy of performance does not exist for the construction product, Article 28 shall apply.

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Article 22

Publication

European Assessment Documents adopted by the organisation of TABs shall be sent to the Commission, which shall publish a list of references of the final European Assessment Documents in the *Official Journal of the European Union*.

The Commission shall publish any updates to that list.

Article 23

Dispute resolution in cases of disagreement between TABs

If the TABs do not agree upon the European Assessment Document within the time limits provided for, the organisation of TABs shall submit this matter to the Commission for appropriate resolution.

Article 24

Content of the European Assessment Document

1 A European Assessment Document shall contain, at least, a general description of the construction product, the list of essential characteristics, relevant for the intended use of the product as foreseen by the manufacturer and agreed between the manufacturer and the organisation of TABs, as well as the methods and criteria for assessing the performance of the product in relation to those essential characteristics.

2 Principles for the applicable factory production control to be applied shall be set out in the European Assessment Document, taking into account the conditions of the manufacturing process of the construction product concerned.

3 Where the performance of some of the essential characteristics of the product can appropriately be assessed with methods and criteria already established in other harmonised technical specifications or the Guidelines referred to in Article 66(3), or used in accordance with Article 9 of Directive 89/106/EEC before 1 July 2013 in the context of issuing European technical approvals, those existing methods and criteria shall be incorporated as parts of the European Assessment Document.

Article 25

Formal objections against European Assessment Documents

1 Where a Member State or the Commission considers that a European Assessment Document does not entirely satisfy the demands to be met in relation to the basic requirements for construction works set out in Annex I, the Member State concerned or the Commission shall bring the matter before the Standing Committee on Construction, giving its arguments. The Standing Committee on Construction shall, after having consulted the organisation of TABs, deliver its opinion without delay.

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2 In the light of the opinion of the Standing Committee on Construction, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the European Assessment Documents concerned in the *Official Journal of the European Union*.

3 The Commission shall inform the organisation of TABs accordingly and, if necessary, request the revision of the European Assessment Document concerned.

Article 26

European Technical Assessment

1 The European Technical Assessment shall be issued by a TAB, at the request of a manufacturer on the basis of a European Assessment Document established in accordance with the procedures set out in Article 21 and Annex II.

Provided that there is a European Assessment Document, a European Technical Assessment may be issued even in the case where a mandate for a harmonised standard has been issued. Such issuing shall be possible until the beginning of the coexistence period as determined by the Commission in accordance with Article 17(5).

2 The European Technical Assessment shall include the performance to be declared, by levels or classes, or in a description, of those essential characteristics agreed by the manufacturer and the TAB receiving the request for the European Technical Assessment for the declared intended use, and technical details necessary for the implementation of the system of assessment and verification of constancy of performance.

3 In order to ensure the uniform implementation of this Article, the Commission shall adopt implementing acts to establish the format of the European Technical Assessment in accordance with the procedure referred to in Article 64(2).

Article 27

Levels or classes of performance

1 The Commission may adopt delegated acts in accordance with Article 60, to establish classes of performance in relation to the essential characteristics of construction products.

2 Where the Commission has established classes of performance in relation to the essential characteristics of construction products, the European standardisation bodies shall use those classes in harmonised standards. The organisation of TABs shall where relevant use those classes in European Assessment Documents.

Where classes of performance in relation to the essential characteristics of construction products are not established by the Commission, they may be established by the European standardisation bodies in harmonised standards, on the basis of a revised mandate.

3 When provided for in the relevant mandates, the European standardisation bodies shall establish in harmonised standards threshold levels in relation to essential characteristics and, when appropriate, for intended uses, to be fulfilled by construction products in Member States.

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4 Where the European standardisation bodies have established classes of performance in a harmonised standard, the organisation of TABs shall use those classes in the European Assessment Documents where they are relevant for the construction product.

When deemed appropriate, the organisation of TABs may, with the agreement of the Commission and after consulting the Standing Committee on Construction, establish in the European Assessment Document classes of performance and threshold levels in relation to the essential characteristics of a construction product within its intended use as foreseen by the manufacturer.

5 The Commission may adopt delegated acts in accordance with Article 60, to establish conditions under which a construction product shall be deemed to satisfy a certain level or class of performance without testing or without further testing.

Where such conditions are not established by the Commission, they may be established by the European standardisation bodies in harmonised standards, on the basis of a revised mandate.

6 When the Commission has established classification systems in accordance with paragraph 1, Member States may determine the levels or classes of performance to be respected by construction products in relation to their essential characteristics only in accordance with those classification systems.

7 The European standardisation bodies and the organisation of TABs shall respect the regulatory needs of Member States when determining threshold levels or classes of performance.

Article 28

Assessment and verification of constancy of performance

1 Assessment and verification of constancy of performance of construction products in relation to their essential characteristics shall be carried out in accordance with one of the systems set out in Annex V.

2 By means of delegated acts in accordance with Article 60, the Commission shall establish and may revise, taking into account in particular the effect on the health and safety of people, and on the environment, which system or systems are applicable to a given construction product or family of construction products or a given essential characteristic. In doing so, the Commission shall also take into account the documented experiences forwarded by national authorities with regard to market surveillance.

The Commission shall choose the least onerous system or systems consistent with the fulfilment of all basic requirements for construction works.

3 The system or systems thus determined shall be indicated in the mandates for harmonised standards and in the harmonised technical specifications.

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