

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 IX

FINAL PROVISIONS

Article 60

Delegated acts

For the purposes of achieving the objectives of this Regulation, in particular removing and avoiding restrictions on making construction products available on the market, the following matters shall be delegated to the Commission in accordance with Article 61, and subject to the conditions laid down in Articles 62 and 63:

- (a) the determination, where appropriate, of the essential characteristics or threshold levels within specific families of construction products, in relation to which, in accordance with Articles 3 to 6, the manufacturer shall declare, in relation to their intended use, by levels or classes, or in a description, the performance of the manufacturer's product when it is placed on the market;
- (b) the conditions on which a declaration of performance may be electronically processed, in order to make it available on a web site in accordance with Article 7;
- (c) the amendment of the period for which the manufacturer shall keep the technical documentation and the declaration of performance after the construction product has been placed on the market, in accordance with Article 11, based on the expected life or the part played by the construction product in the construction works;
- (d) the amendment of Annex II and where necessary the adoption of supplementary procedural rules in accordance with Article 19(3) in order to ensure compliance with the principles in Article 20, or the application in practice of the procedures set out in Article 21;
- (e) the adaptation of Annex III, table 1 of Annex IV, and Annex V in response to technical progress;
- (f) the establishment and adaptation of classes of performance in response to technical progress in accordance with Article 27(1);
- (g) the conditions on which a construction product shall be deemed to satisfy a certain level or class of performance without testing or without further testing in accordance with Article 27(5), provided that the fulfilment of the basic requirements for construction works is not thereby jeopardised;
- (h) the adaptation, establishment and revision of the systems of assessment and verification of constancy of performance in accordance with Article 28, relating to a given product, a given product family or a given essential characteristic, and in accordance with:

Status: Point in time view as at 31/01/2020.

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- (i) the importance of the part played by the product or those essential characteristics with respect to the basic requirements for construction works;
- (ii) the nature of the product;
- (iii) the effect of the variability of the essential characteristics of the construction product during the expected life of the product; and
- (iv) the susceptibility to defects in the product's manufacture.

Article 61

Exercise of the delegation

1 The power to adopt delegated acts referred to in Article 60 shall be conferred on the Commission for a period of 5 years from 24 April 2011. The Commission shall draw up a report in respect of the delegated power at the latest 6 months before the end of the 5-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 62.

2 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 62 and 63.

Article 62

Revocation of the delegation

1 The delegation of power referred to in Article 60 may be revoked at any time by the European Parliament or by the Council.

2 The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.

3 The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 63

Objections to delegated acts

1 The European Parliament or the Council may object to a delegated act within a period of 3 months from the date of notification.

At the initiative of the European Parliament or the Council, that period shall be extended by 3 months.

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2 If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3 If either the European Parliament or the Council objects to a delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 64

Committee

1 The Commission shall be assisted by a Standing Committee on Construction.

2 Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

3 Member States shall ensure that the members of the Standing Committee on Construction are 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.

Article 65

Repeal

1 Directive 89/106/EEC is repealed.

2 References to the repealed Directive shall be construed as references to this Regulation.

Article 66

Transitional provisions

1 Construction products which have been placed on the market in accordance with Directive 89/106/EEC before 1 July 2013 shall be deemed to comply with this Regulation.

2 Manufacturers may draw up a declaration of performance on the basis of a certificate of conformity or a declaration of conformity, which has been issued before 1 July 2013 in accordance with Directive 89/106/EEC.

3 Guidelines for European technical approval published before 1 July 2013 in accordance with Article 11 of Directive 89/106/EEC may be used as European Assessment Documents.

4 Manufacturers and importers may use European technical approvals issued in accordance with Article 9 of Directive 89/106/EEC before 1 July 2013 as European Technical Assessments throughout the period of validity of those approvals.

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Article 67

Reporting by the Commission

1 By 25 April 2014, the Commission shall assess the specific need for information on the content of hazardous substances in construction products and consider the possible extension of the information obligation provided for in Article 6(5) to other substances, and shall report thereon to the European Parliament and to the Council. In its assessment, the Commission shall take into account, inter alia, the need to ensure a high level of protection of the health and safety of workers using construction products and of users of construction works, including with regard to recycling and/or reuse requirements of parts or materials.

If appropriate, the report shall, within 2 years of its submission to the European Parliament and to the Council, be followed up by appropriate legislative proposals.

2 By 25 April 2016, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation, including on Articles 19, 20, 21, 23, 24 and 37 on the basis of reports provided by Member States, as well as by other relevant stakeholders, accompanied, where relevant, by appropriate proposals.

Article 68

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

However, Articles 3 to 28, Articles 36 to 38, Articles 56 to 63, Articles 65 and 66, as well as Annexes I, II, III and V shall apply from 1 July 2013.

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