
DRAFT STATUTORY INSTRUMENTS

2020 No.

**The Construction Products (Amendment
etc.) (EU Exit) Regulations 2020**

Citation and commencement

1. These Regulations may be cited as the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 and come into force immediately before the 2019 Regulations come into force.

Interpretation

2.—(1) In these Regulations—

“the 2011 Regulation” means [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](#)(1);

“the 2019 Regulations” means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019(2);

“the EU Construction Products Regulation” means [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](#)(3) as it has effect in EU law as amended from time to time;

“the RAMS Regulation” means [Regulation \(EC\) No 765/2008](#) of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing [Regulation \(EEC\) No 339/93](#)(4) as it has effect in EU law as amended from time to time;

“CE marking” means the marking presented in Annex 2 to the RAMS Regulation;

“construction product” means any product or kit which is produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works;

“EU-assessed product” means a construction product which is covered by a harmonised standard, or conforms to a European Technical Assessment which has been issued for it, where the assessment and verification of constancy of performance of the product under Article 28 of the EU Construction Products Regulation was carried out by a body based in the European Union (not including Northern Ireland);

“UK-assessed product” means a construction product which is covered by a harmonised standard, or conforms to a European Technical Assessment which has been issued for it, where the assessment and verification of constancy of performance of the product under Article 28

(1) [EUR 2011/305](#). The EU Regulation is amended by the 2019 Regulations which are amended by this instrument.

(2) [S.I. 2019/465](#).

(3) [OJ L 88, 4.4.2011, p. 5–43](#).

(4) [OJ No L 218, 13.8.2008, p.30](#).

of the EU Construction Products Regulation was carried out by a body based in the United Kingdom;

“UK(NI) indication” means the marking in the form set out in Schedule 1 to the Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020⁽⁵⁾.

(2) A reference in the RAMS Regulation, as it applies to construction products, or in the EU Construction Products Regulation, to “the market surveillance authorities” shall have effect in relation to the United Kingdom in respect of Northern Ireland as a reference to “the Secretary of State or to an enforcement authority”.

(3) Any other expression used in these Regulations (except in Schedule 1) and occurring in the EU Construction Products Regulation shall have the same meaning as it has in that Regulation.

Amendments to the 2019 Regulations

3.—(1) The 2019 Regulations are amended as follows.

(2) Schedule 1 to the 2019 Regulations (amendments to the 2011 Regulation) is amended in accordance with the amendments set out in Schedule 1 to these Regulations.

(3) Schedule 2 to the 2019 Regulations (amendments to the 2013 Regulations) is amended in accordance with the amendments set out in Schedule 2 to these Regulations.

(4) Schedule 3 to the 2019 Regulations (amendments etc of EU tertiary legislation and consequential provision) is amended as follows—

- (a) in the heading after “provision” insert “— Great Britain”;
- (b) in paragraph 1, for “are repealed” substitute “have effect, in relation to England and Wales, and Scotland, as if they were repealed”;
- (c) in paragraph 2(1), after “effect” insert “, in relation to England and Wales, and Scotland,”;
- (d) in paragraph 2(1)(d) for “relevant standard” substitute “designated standard”;
- (e) in paragraph 2(1)(e) for “the United Kingdom” substitute “Great Britain”;
- (f) in paragraph 3, omit the first “In”, and for “, omit Article 2” substitute “has effect, in relation to England and Wales, and Scotland, as if Article 2 were omitted”;
- (g) in paragraph 4(1), for “In the” substitute “The”, and for “, omit Article 3” substitute “have effect, in relation to England and Wales, and Scotland, as if Article 3 were omitted”;
- (h) in paragraph 5(1), for “In the” substitute “The”, and for “, omit Article 4” substitute “have effect, in relation to England and Wales, and Scotland, as if Article 4 were omitted”;
- (i) in paragraph 6(1), after “amended” insert “, in relation to England and Wales, and Scotland,”;
- (j) in paragraph 7(1)—
 - (i) for “In the” substitute “The”;
 - (ii) for “, after Article 2, omit” substitute “have effect, in relation to England and Wales, and Scotland, as if in Article 2”;
 - (iii) after “sentence” insert “were omitted”;
- (k) in paragraph 8—
 - (i) omit “In”;

(5) Paragraph 3(4) of Article 7 of the Ireland/Northern Ireland Protocol to the EU Withdrawal Agreement provides that where businesses placing goods on the market in Northern Ireland affix a CE marking on any goods based on the conformity assessment of a UK authority or body then that marking must be accompanied by a UK(NI) indication.

- (ii) for “, after Article 3, omit” substitute “has effect, in relation to England and Wales, and Scotland, as if in Article 3”;
- (iii) after “sentence” insert “were omitted”;
- (l) in paragraph 9—
 - (i) omit “In”;
 - (ii) for “, after Article 3, omit” substitute “has effect, in relation to England and Wales, and Scotland, as if in Article 3”;
 - (iii) after “sentence” insert “were omitted”;
- (m) in paragraph 10, omit “In” and for “, omit points 2 and 2A” substitute “has effect, in relation to England and Wales, and Scotland, as if points 2 and 2A were omitted”.

Construction products to be placed on the market in Northern Ireland

4.—(1) In relation to the marking of construction products to be placed on the market in respect of Northern Ireland, the general principles (including as to form of the marking to be used)—

- (a) set out in Schedule 1 to the Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020 shall apply to the UK(NI) indication;
- (b) set out in Article 30 of the RAMS Regulation shall apply to the CE marking.

(2) The EU Construction Products Regulation⁽⁶⁾, as it applies in the United Kingdom in respect of Northern Ireland, has effect—

- (a) as if—
 - (i) in Article 2, for paragraphs 21 to 22, there were substituted—
 - “**21.** ‘importer’ means any natural or legal person who is established within the relevant market and places a construction product from outside the relevant market on that market;
 - “**22.** ‘authorised representative’ means any natural or legal person established within the relevant market who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;
 - “**22A.** ‘relevant market’ means—
 - (a) the market in Northern Ireland; and
 - (b) the market of the EEA states;”;
 - (ii) in paragraph 5 of Article 48, the reference to “objections” did not include objections on the grounds that —
 - (aa) the conformity assessment body is established in the United Kingdom; or
 - (bb) the accreditation certificate was issued by the United Kingdom’s accreditation body; and
- (b) where a UK-assessed product is to be placed on the market in Northern Ireland, as if—
 - (i) references to affixing a CE marking were a reference to affixing a CE marking and an accompanying UK(NI) indication⁽⁷⁾;

⁽⁶⁾ The EU Construction Products Regulation is listed in paragraph 14 of Annex 2 to the Ireland/Northern Ireland Protocol to the EU Withdrawal Agreement and by virtue of paragraph 4 of Article 5 of that protocol this EU regulation continues to apply in Northern Ireland.

⁽⁷⁾ The fourth subparagraph of Article 7(3) of the Ireland/Northern Ireland Protocol to the EU Withdrawal Agreement requires that a conformity marking (ie the CE marking) required under EU law which is affixed to a product based on an assessment issued by a body established in the United Kingdom must be accompanied by the additional indication ‘UK(NI)’.

- (ii) references to a notified body were a reference to the UK-based body which carried out the assessment and verification of constancy of performance under Article 28 of the EU Construction Products Regulation in relation to the product.

Enforcement rules — Northern Ireland

5. Schedule 3 to these Regulations has effect, in respect of Northern Ireland, to make provision for the enforcement of the EU Construction Products Regulation and the RAMS Regulation in relation to construction products.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Date

Name
Parliamentary Under Secretary of State
Ministry of Housing, Communities and Local
Government