

SCHEDULE 2

Regulation 4

Amendments to the 2013 Regulations

Introduction

1. The 2013 Regulations are amended in accordance with paragraphs 2 to 11 of this Schedule.

Amendments to regulation 2

- 2.—(1) Regulation 2 (interpretation) is amended as follows.
 - (2) In paragraph (1), after the definition of “the 2011 Regulation”, insert—

““the EU Construction Products Regulation” means [Regulation \(EU\) No 305/2011](#) of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council [Directive 89/106/EEC](#) as it has effect in EU law as amended from time to time;”
 - (3) In paragraph (2), for “shall have effect in relation to the United Kingdom as” substitute “is”;
 - (4) Omit paragraph (3).

Amendments to regulation 3

3. In regulation 3(1) (competent authority), in the words before sub-paragraph (a), omit “for the United Kingdom” and “of the 2008 Regulation, as it applies to construction products, and”.

Amendments to regulation 4

- 4.—(1) Regulation 4 (prohibition on supply etc.) is amended as follows.
 - (2) In paragraph (1)—
 - (a) in the words before sub-paragraph (a)—
 - (i) for “harmonised” substitute “designated”;
 - (ii) for “European” substitute “UK”;
 - (b) in sub-paragraph (b)—
 - (i) for “CE” substitute “UK”;
 - (ii) for “8(2)” substitute “8(1)”.
 - (3) After paragraph (2), insert—

“(2A) Paragraph (1) does not apply where—

 - (a) Article 16A(2) of the 2011 Regulation applies;
 - (b) there is supplied with the product in accordance with Article 7 of the 2011 Regulation (as modified by Article 16A(3) of that Regulation) a declaration of performance for the product drawn up in accordance with Articles 4 and 6 of the EU Construction Products Regulation; and
 - (c) the product has affixed to it the CE marking in accordance with Article 8(2) of the EU Construction Products Regulation.”
 - (4) In paragraph (3), for “CE” substitute “UK”.

Amendment to regulation 7

5. Omit regulation 7(4)(b) (ground for further suspension notice).

Amendment to regulation 19

6. Omit regulation 19(3)(b) (condition for an order requiring products to be released).

Amendment to regulation 22

7. In regulation 22(3)(b)(iii) (exception to the restriction on the disclosure of information), for “an” substitute “a retained”.

Amendments to Schedule 1

8.—(1) Schedule 1 (grounds for service of notices in relation to the 2008 Regulation and the 2011 Regulation) is amended as follows.

- (2) In paragraph 2(b), (c), (e) and (f), omit “national”.
- (3) In paragraph 4, for “products entering the Community market” substitute “imported products”.
- (4) In paragraph 5—
 - (a) for “products entering the Community market” substitute “imported products”;
 - (b) for “Community harmonisation legislation” substitute “any relevant enactment”.
- (5) In paragraph 6—
 - (a) in sub-paragraph (a), omit “at national level”;
 - (b) in sub-paragraph (b), omit “or (8)” and the “or” at the end;
 - (c) at the end of sub-paragraph (c), for the full stop substitute “; or”;
 - (d) after sub-paragraph (c), insert—
 - “(d) Article 59B(2) (other non-compliance in relation to the EU Construction Products Regulation) of the 2011 Regulation.”.
- (6) Omit paragraph 7.
- (7) In paragraph 8, after “(formal non-compliance)” insert “or 59A(2) (formal non-compliance in relation to the EU Construction Products Regulation)”.

Amendments to Schedule 2

9. In Schedule 2 (suspension notices)—
 - (a) in paragraph 7—
 - (i) at the end of sub-paragraph (a), insert “and”;
 - (ii) at the end of sub-paragraph (b), for “; and” substitute a full stop;
 - (iii) omit sub-paragraph (c);
 - (b) in paragraph 8—
 - (i) at the end of sub-paragraph (a), insert “and”;
 - (ii) at the end of sub-paragraph (b), for “; and” substitute a full stop;
 - (iii) omit sub-paragraph (c);
 - (c) in paragraph 11—
 - (i) at the end of sub-paragraph (a), for the semi-colon substitute a full stop;
 - (ii) omit sub-paragraphs (b) and (c).

Amendments to Schedule 3

- 10.** In Schedule 3 (prohibition notices), in paragraph 7—
- (a) at the end of sub-paragraph (a), for the semi-colon substitute a full stop;
 - (b) omit sub-paragraphs (b) and (c).

Amendments to Schedule 4

- 11.** In Schedule 4 (notices to warn), in paragraph 5—
- (a) at the end of sub-paragraph (a), for the semi-colon substitute a full stop;
 - (b) omit sub-paragraphs (b) and (c).

Transitional provisions

12.—(1) In respect of a construction product which is made available on the market of the United Kingdom during the pre-exit period—

- (a) despite the amendments made by paragraph 4 of this Schedule, regulation 4 of the 2013 Regulations is to continue to have effect as it did immediately before exit day;
- (b) any reference in the 2013 Regulations to a requirement in the 2011 Regulation is to be read as a reference to that requirement as it had effect immediately before exit day.

(2) In this paragraph—

“construction product” has the same meaning as in the 2011 Regulation as it had effect immediately before exit day;

“make available on the market” means the supply of a construction product for distribution or use on the market in the course of a commercial activity, whether in return for payment or free of charge (and related expressions must be construed accordingly);

“pre-exit period” means the period beginning with 1 July 2013 and ending immediately before exit day.

13. Where a suspension notice is served before exit day on any of the grounds in Schedule 1 to the 2013 Regulations, the reference to those grounds in paragraphs 3(b), 7(b) and 8(b) of Schedule 2 to the 2013 Regulations is to be read on or after exit day as a reference to the grounds as they had effect immediately before exit day.

14. Where a prohibition notice is served before exit day under regulation 11(1) of the 2013 Regulations, any reference in Schedule 3 to the 2013 Regulations to establishing that the grounds for the service of the notice are not made out is to be read on or after exit day as a reference to the grounds as they had effect immediately before exit day.