

Construction products: harmonised conditions for the marketing

2008/0098(COD) - 09/03/2011 - Final act

PURPOSE: to ensure the proper functioning of the internal market for construction products by means of harmonised technical specifications to express the performance of construction products.

LEGISLATIVE ACT: 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.

CONTENT: following the agreement reached with the Parliament in second reading, the Council adopted a Regulation updating the conditions for the marketing of construction products in the internal market.

This Regulation is designed to **simplify and clarify the existing framework for the placing on the market of construction products** by replacing the measures foreseen in Directive 89/106/EEC which is currently in force. It lays down the conditions for the placing or making available on the market of construction products by establishing harmonised rules on how to express the performance of construction products in relation to their essential characteristics and on the use of CE marking on those products.

The provisions of the new Directive seek to:

- **clarify the affixing of CE marking:** CE marking is affixed to construction products for which the manufacturer has drawn up a declaration of performance. By affixing the CE marking to a construction product, manufacturers indicate that they take responsibility for the conformity of that product with its declared performance;
- introduce **simplified procedures** enabling costs borne by business, especially SMEs, to be reduced and to impose stricter designation for **organisations responsible for assessing the performance** of construction products and the verification of the products' constancy.

More specifically, the purpose of the measures is to provide **reliable and precise information** on construction products in regard to their performance. The system applied to achieve this comprises two main elements: a body of harmonised technical specifications, harmonised standards and European Assessment Documents (EADs) providing the methods necessary for the assessment of the performance of the products, as well as a certain number of designated organisations and technical assessment bodies (TABs) selected according to rigorously defined criteria that guarantee the proper use of these methods. A TAB shall make publicly available its organigramme and the names of the members of its internal decision-making bodies. They should establish an organisation responsible for coordinating the procedures for drawing up draft European Assessment Documents, while safeguarding the necessary transparency and confidentiality in these procedures.

Other aspects of the Regulation relate to:

- the drawing up **by electronic means** of the **declaration of performance** for products to be placed on the market. The declaration of performance shall be numbered according to the reference number of the product type;

- the possibility of allowing micro-enterprises manufacturing construction products to apply simplified procedures while respecting safety standards. When manufacturers use these simplified procedures, they shall demonstrate compliance of the construction product with the applicable requirements;
- information that national administrations will be required to provide via **construction products contact points**. The latter should be in a position to carry out their tasks avoiding conflicts of interest, in particular in regard to the access procedure to CE marking. Member States must also ensure that there are sufficient resources allocated to the product contact points;
- aspects relating to the environment and **safety** aspects in respect of the use of construction products **throughout their life cycle** and in particular the **dangerous substances** used in their manufacture. Information regarding the content of hazardous substances are, in the first instance, limited to those substances covered by Regulation (EC) No 1907/2006 (REACH Regulation);
- 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** to other substances. It 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.

Report: by 25 April 2016, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation on the basis of reports provided by Member States, as well as by other relevant stakeholders, accompanied, where relevant, by appropriate proposals.

ENTRY INTO FORCE: 24/04/2011. Some of the provisions of the Regulation will enter into force on 01/07/2013 so that businesses have the necessary time to adapt to the new legislation.

DELEGATED ACTS: Article 60 of the Regulation stipulates that the Commission is empowered to adopt certain delegated acts with the purpose of achieving the Regulation's objectives. The power to adopt delegated acts is conferred on the Commission for a period of five years from 24 April 2011. The delegation of power is automatically renewed for periods of the same duration, unless the revoked by the European Parliament or by the Council. The European Parliament or the Council may object to the delegated act within a period of **three months** from the date of notification (this period may be extended by a further three months). If the European Parliament or the Council objects to a delegated act, it shall not enter into force.