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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 20 March 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2017) 1703 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 20.3.2017 on the
conditions for classification, without testing, of external renders and internal
plasters based on organic binders covered by the harmonised standard EN
15824 and rendering and plastering mortars covered by the harmonised
standard EN 998-1 with regard to their reaction to fire

Delegations will find attached document C(2017) 1703 final.

Encl.: C(2017) 1703 final



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COMMISSION DELEGATED REGULATION (EU) .../...

of 20.3.2017

on the conditions for classification, without testing, of external renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1 with regard to their reaction to fire

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

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/EEC¹ contains an empowerment to the Commission to adopt delegated acts to establish classes of performance in relation to the essential characteristics of construction products. The Regulation also provides that the manufacturers of construction products should not be subjected to unnecessary administrative burdens or costs. Notably, as foreseen in Article 28 of Regulation (EU) No 305/2011, the Commission should choose the least onerous system for assessment and verification of constancy of performance, which still could serve appropriately the needs of health, safety and environment.

When the performance of certain construction products has already been sufficiently demonstrated by stable test results or other existing data, their manufacturers should be permitted, under conditions to be specified, to declare a certain class of performance without testing or further testing these products as foreseen in Article 27(5) and Article 36(1)(a) of Regulation (EU) No 305/2011. This simplified procedure further reduces administrative burdens and costs for manufacturers.

During the consultation of experts nominated by Member States, based on extensive evidence on testing results by industry, it has been demonstrated that external renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1 have proven to have a stable and predictable performance concerning reaction to fire, when they meet certain conditions. For this reason, the reaction to fire performance of these products can be deemed, without the need for any further testing, to achieve certain classes of performance where those conditions are fulfilled.

This draft Regulation sets out the conditions under which these simplified procedures for determining the performance in relation to reaction to fire of external renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1 can be applied.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft Regulation was discussed firstly in the fire-related subgroup of experts (FireSubAG) on 12 March 2015 and then in the meeting of the Advisory Group for Construction² (the AG) on 8 May 2015. It was also submitted for a written consultation of experts between 6 March and 8 May 2015. Before these steps, all Member States were presented an opportunity to nominate experts to participate in them. In addition to these experts, also other external stakeholders were consulted. The documents discussed in the FireSubAG and the AG, relevant to the written consultation, were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts.

¹ OJ L 88, 4.4.2011, p. 5.

² Code E01329 in the Register of Commission Expert Groups and Other Similar Entities

The observations presented in these contexts have been taken into account when preparing the final draft version of this act for the inter-service consultation.

It was published for public feedback on the Better Regulation Portal from 12 January to 9 February 2017; no feedback was received.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Pursuant to Article 27 of Regulation (EU) No 305/2011, classes of performance may be established in relation to the essential characteristics of construction products. According to Article 27(1), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose.

Moreover, in accordance with Article 27(5), the Commission may establish conditions under which a construction product shall be deemed to achieve a certain class of performance without testing or without further testing, in order to avoid the unnecessary testing of construction products for which performance has already been sufficiently demonstrated by stable test results or other existing data.

These conditions are then to be fulfilled when a manufacturer wishes to replace type-testing of his product by these levels or classes of performance, as set out in Article 36(1)(a) of Regulation (EU) No 305/2011.

The European classification system established by Commission Delegated Regulation (EU) 2016/364³, regarding the reaction to fire of construction products, in particular Table 1 of its Annex, is applicable to external renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1.

According to the expert group consultations carried out, the reaction to fire performance of external renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1, within the classification provided for in Regulation (EU) 2016/364, is well established. For this reason, the reaction to fire performance of these products can be deemed, without the need for any further testing, to achieve a certain class of performance, as defined in the European classification system mentioned above.

The draft Regulation conforms to the principle of proportionality, since adopting a delegated act is the most efficient way to achieve the desired outcome, the alleviation of administrative burdens, while continuing to guarantee legal certainty. It results in alleviating administrative obligations for market actors otherwise to be complied with under Regulation (EU) 305/2011, concerning the testing of products under its scope.

³ OJ L 68, 15.3.2016, p. 4.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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/EEC¹, and in particular Article 27(5) thereof,

Whereas:

- (1) A system for classifying the performance of construction products with regard to their reaction to fire was adopted in Commission Delegated Regulation (EU) 2016/364². External renders and internal plasters based on organic binders, as well as rendering and plastering mortars are among the construction products to which that Delegated Regulation applies.
- (2) Tests have shown external renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1 to have a stable and predictable performance concerning reaction to fire provided that they meet certain conditions regarding the maximum organic content of the product, the maximum mass per unit area applied on the substrate and the fire performance of the substrate.
- (3) External renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1 should therefore be deemed to satisfy a certain class of performance for reaction to fire established in Delegated Regulation (EU) 2016/364 on those conditions without further testing being required,

¹ OJ L 88, 4.4.2011, p. 5.

² Commission Delegated Regulation (EU) 2016/364 of 1 July 2015 on the classification of the reaction to fire performance of construction products pursuant to Regulation (EU) No 305/2011 of the European Parliament and of the Council (OJ L 68, 15.3.2016, p. 4).

HAS ADOPTED THIS REGULATION:

Article 1

External renders and internal plasters based on organic binders covered by the harmonised standard EN 15824 and rendering and plastering mortars covered by the harmonised standard EN 998-1 which fulfil the conditions set out in the Annex shall be deemed to satisfy the classes of performance indicated in the Annex without testing.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20.3.2017

For the Commission
The President
Jean-Claude JUNCKER