

Updating of regulations on the marketing of construction products

On 20 January 2014, the Belgian Official Journal published the Act of 21 December 2013 implementing 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 93/42/EEC, as well as removing various provisions. Since 1 July 2013, the new EU Regulation No. 305/2011 applies in full in all Member States. This regulation 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”. ⁽¹⁾ The Act of 21 December 2013 provides a number of provisions that introduce this regulation into the Belgian national law. Firstly the King is authorised to establish, by implementing decree, the provisions for the implementation of the fundamental requirements for structures, as intended in annex I of the Regulation or in order to ensure quality in construction. Then the King can appoint officials who are authorised to supervise the implementation of the provisions of the law and its implementing decrees. These officials have broad powers. They may enter into storage areas, premises, workshops, buildings and inner courtyards at any time at any time and may search through containers and vehicles. If necessary, they may have themselves accompanied by the public authorities. If the places in question also serve as a residence, these inspections may only be performed by at least two officials and with prior consent from a Police Court Judge. Furthermore, these officials may make all useful findings, question individuals, demand the production of useful documents, records and electronic media, in return for a receipt seize documents, take and analyse samples and inspect installations (or have them inspected by others). Their official reports have probative value until proof of the contrary. When violations are determined in connection with particular goods, either the offender can voluntarily give up the goods or they can be seized. Violations of Regulation No. 305/2011, the Act of 21 December 2013 or its implementing decrees are punishable by a fine ranging from 26.00 to 25,000.00 EUR. This penalty can be doubled when the violation occurs within five years after a condemnation for the same violation that is definitive and no longer open for appeal. Furthermore, the act authorises the King to establish the provisions with regard to the Product Contact Point for Construction. These contact points offer information on the provisions in order to better ensure that the fundamental requirements for the intended use of each construction product are fulfilled. ⁽²⁾ Finally, one must also point out the King’s authority to set up an advisory committee, named the "Technical Commission for Construction". This commission gives advice on all issues relating to the application of Regulation No. 305/2011 and for

the preparation of the implementing decrees of the Act. For example, the commission gives advice when establishing the "Technical Specifications" which, for the principals, can serve as frames of reference to support voluntary initiatives with regard to quality in construction. The Act entered into force on 20 January 2014. (1) Art. 1, EU Regulation No. 305/2011, <http://eur-lex.europa.eu>. (2) Art. 10, EU Regulation No. 305/2011, <http://eur-lex.europa.eu>.

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