

Construction Products Regulation

Are you ready for July 2013?

- From July 2013, CE MARKING of construction products covered by harmonised European Standards is mandatory.
- Manufacturers, importers and distributors have new obligations and responsibilities when placing a construction product on the market.
- Designers, specifiers and builders must be aware and understand the new requirements on construction products.

Introduction

The EU Construction Products Regulation (No. 305/2011 - CPR) lays down harmonised conditions for the marketing of construction products and is directly applicable¹ in its entirety in Irish law. It is therefore essential that all parties to the construction product supply chain learn and understand its requirements in order to **allow sufficient preparation time for compliance as this can take up to several months to achieve.**

This information paper is aimed at:

- **Manufacturers,**
- **Importers,**
- **Distributors,**
- **Builders, Specifiers and Designers**

and provides basic information on the CPR for each of these stakeholder groups to assist in their preparations for 1 July 2013.

This information paper was prepared by the Building Regulations Advisory Body (BRAB) in conjunction with the following key stakeholders:

- Department of the Environment, Community and Local Government;
- National Standards Authority of Ireland;
- Building Materials Federation;
- Office of Public Works; and the
- National Roads Authority.

It is important to note that this paper does not purport to be a legal interpretation of the EU Regulation.

What are the main provisions of the CPR?

The general objectives and main instruments of the Construction Products Directive (CPD) have not changed in the CPR. The CPD, as an internal market Directive, aims to overcome the technical barriers to trade which arise where different countries in Europe have different standards, testing and labelling approaches for the same construction products. The CPR shares this goal and is intended to clarify, simplify and improve the credibility of the system. The CPR will continue to use the instruments developed for the CPD, but introduces stricter and more transparent procedures and amends some of the terminology in order to be more precise.

The four key instruments are:

- (i) A system of harmonised technical specifications;
- (ii) An agreed system of Assessment of Performance and Verification of Constancy² to (i) above;
- (iii) A framework of notified bodies³, and
- (iv) The CE Marking label (refer to Figure 2).

¹ While the CPR was adopted on 9 March 2011, the key elements will not apply until 1 July 2013. Until then, the Construction Products Directive (89/106/EEC - CPD) will remain in force.

² System of attestation of conformity under CPD.

³ Designated bodies that carry out third-party tasks for the purpose of the CPD or CPR.

What are harmonised technical specifications?

The system of harmonised technical specifications mentioned above include harmonised European standards (hENs), generally for traditional construction products, and European Assessment Documents (EADs) usually for innovative products. These both provide assessment methods for the performance of construction products.

Harmonised European Standards (hENs)

Currently, there are over 400 hENs covering a broad range of construction products. hENs are progressively becoming the norm as conflicting national standards (e.g. Irish and British Standards commonly used here) are being withdrawn.

All hENs under the CPD have an informative **Annex ZA**. In general, this annex contains 3 parts:

- ZA.1 A list of product characteristics as well as the clauses in the standard in which the assessment or test method is set out or referred to. The list represents a compilation of all regulated requirements for the product in question across the EU,
- ZA.2 The procedures for conformity assessment, namely the tasks to be carried out by the manufacturer and the notified body. This is currently referred to as the agreed **system of attestation of conformity**, but will be known as the system of **Assessment of Performance and Verification of Constancy** under the CPR, and
- ZA.3 The process for CE Marking and labeling.

A list of hENs is available at the following link:
<http://ec.europa.eu/enterprise/newapproach/nando/index.cfm?fuseaction=cpd.hs&cpr=Y>

The National Standards Authority of Ireland (NSAI) will be a notified body for certain construction products under the CPR in Ireland.

As the majority of construction products are covered by hENs, they will become the key documents for:

- manufacturers when declaring the performance of a construction product;

- Irish (and other European) authorities when specifying requirements for construction products in regulations, specifications, public procurement documents etc, and
- specifiers and designers (architects, engineers, builders etc) when choosing construction products.

European Assessment Documents (EADs)

EADs can be developed for construction products not covered, or not fully covered, by a hEN. An EAD provides the basis on which a European Technical Assessment (ETA) (and CE Marking affixed), as requested by the manufacturer, can be issued. An updated list of references of the final EADs will be published by the Commission in the Official Journal of the European Union⁴.

How does the CPR affect me?

I am a manufacturer

From 1 July 2013 manufacturers of construction products which are covered by harmonised European product standards (hENs)⁵, will be required, when placing a product on the market, to:

- **make a Declaration of Performance (DoP) for the product, and**
- **affix the CE mark.⁶**

In preparation for 1 July 2013, the European Standards Organisation, CEN, is working to modify the template for Annex ZA in the hENs to address the changes introduced by the CPR. However, this will not affect the body of the standard or the material content of Annex ZA in terms of product characteristics, test methods or the agreed role of the manufacturer and the notified body. Therefore, as matters stand, the current Annex ZAs can be used by manufacturers to prepare for 1 July 2013.

⁴ <http://www.ojeu.eu/WhatIsTheOJEU.aspx>

⁵ Where a construction product is not covered, or not fully covered, by a hEN. A manufacturer can voluntarily request a European Technical Assessment (ETA). When a product is covered by an ETA, the manufacturer will be required, when placing a product on the market, to make a Declaration of Performance (DoP) for the product, and affix the CE mark.

⁶ While CE Marking was not considered mandatory in Ireland (nor the UK) under the CPD, it is under the CPR.

The annex ZA currently could be considered as a 'checklist' for CE Marking, where the manufacturer can see all the possible requirements of his products and how they can be tested. This will, under the CPR, form a checklist for the drawing up of a **Declaration of Performance (DoP)** and for affixing the **CE Mark**.

All the information supplied with the DoP should be obtained by strictly applying the methods and criteria provided by the relevant hEN⁷. The DoP provides information about the **essential characteristics of the product**. The manufacturer, by drawing up his DoP, assumes the **responsibility for the conformity of the construction product** with the declared performance. The application of the **CE mark** follows the DoP and effectively certifies that the manufacturer has strictly followed all the applicable procedures in drawing up his DoP and that, consequently, the DoP is accurate and reliable.

The manufacturer must also:

- keep documentation for 10 years;
- ensure consistent production;
- monitor the product on the market;
- ensure the product is identifiable;
- indicate a contact point on the product;
- provide instructions and safety information in the appropriate languages;
- take corrective measures where necessary, and
- cooperate with requests from national authorities.

For more information on these responsibilities see Article 11 of Regulation (EU) No. 305/2011 available at the following link:

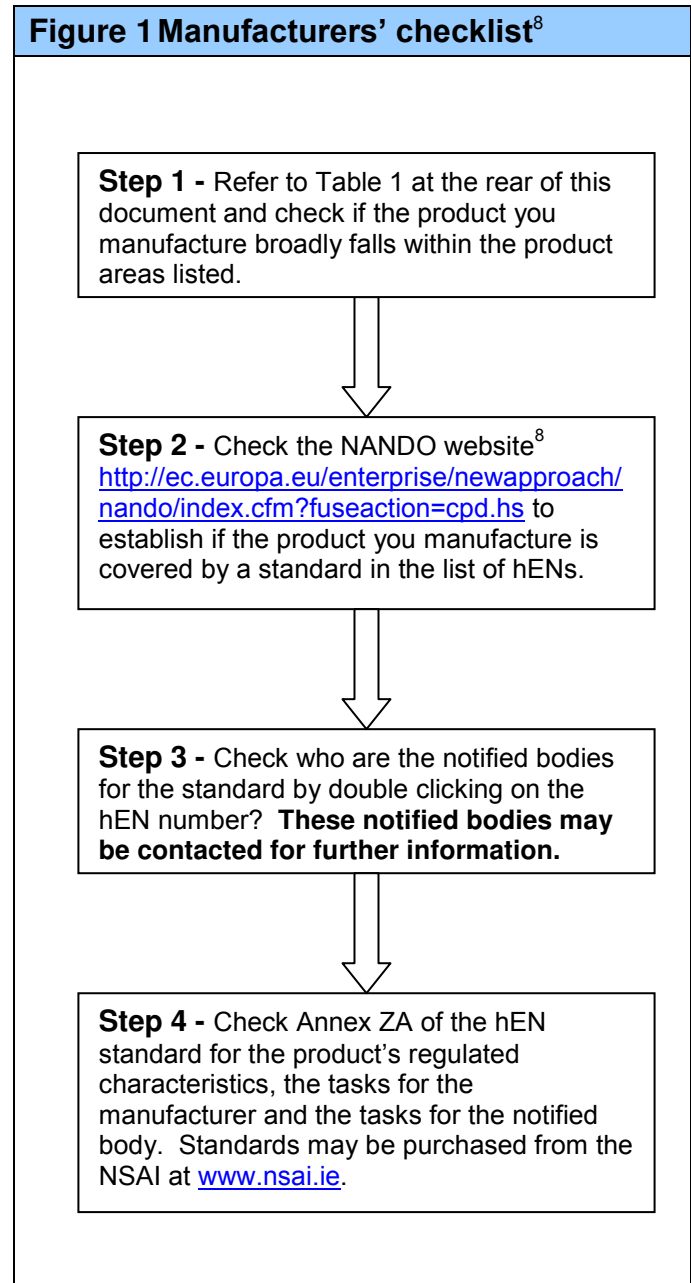
http://ec.europa.eu/enterprise/sectors/construction/egislation/index_en.htm

To check if the product you manufacture is covered by a hEN, follow the flow chart in Figure 1. Manufacturers should also check if a National Annex or a Standard Recommendation, which provides guidance on the appropriate minimum

⁷ Or in the case of a product not covered or not fully covered by a harmonised standard, a manufacturer can voluntarily request a European Technical Assessment based on a European Assessment Document in order to draw up a DoP and affix the CE Mark.


performance levels required for specific intended uses in Ireland, exists for the product. A list of these can be viewed on the NSAI website at www.nsai.ie.

The obligations on manufacturers are clearly set out in the CPR with regard to the products they place on the internal market. Failure to comply with any provision of the CPR would be considered a breach of the Regulation and may give rise to a prosecution.



⁸ The hyper link in Step 2 refers to hENs covered by the CPD. This is for the purposes of identifying established notified bodies in Step 3. The following hyper link to the CPR should be used when bodies become notified under the CPR: <http://ec.europa.eu/enterprise/newapproach/nando/index.cfm?fuseaction=cpd.hs&cpr=Y>

Figure 2 Example CE marking information

 8910
AnyCo Ltd, PO Box 21, Dublin 16 Ireland 13 00001-CPR-2013/05/12 EN 123 - 5: 2009
Product A intended to be used in (e.g. curtain walling, fire compartmentation, etc.) essential characteristic 1: 50N/cm ² essential characteristic 2: Pass essential characteristic 3: Class A1 essential characteristic 4: RE 60 essential characteristic n: xxx Durability of essential characteristic 1: expressed as indicated in the DoP Durability of essential characteristic n: expressed as indicated in the DoP Dangerous substance X : Less than 0,2 ppm

I am an importer

The CPR has introduced a 'chain of custody' approach for construction products being placed on the market resulting in a greater legal responsibility for compliance with agents and importers.

To comply with the CPR, importers must:

- satisfy themselves that the manufacturer has done all that is required to comply with the CPR;
- ensure their (the importers) name and contact details appear on the product, labelling or associated documents;
- ensure instructions and safety information is in the appropriate language of the particular market;
- ensure that products are stored or moved under such conditions that don't alter the products compliance;
- monitor the product on the market;
- take corrective measures where necessary;
- keep documentation for 10 years; and
- cooperate with requests from national authorities.

For more information on these responsibilities see Article 13 of Regulation (EU) No. 305/2011 available at the following link:

http://ec.europa.eu/enterprise/sectors/construction/legislation/index_en.htm

If an importer places a product on the market under his trade name, or modifies a product, then he will be treated as the manufacturer.

Importers should also check if a National Annex or a Standard Recommendation, which set out the appropriate minimum performance levels required for specific intended uses in Ireland, exists for the product. A list of these can be viewed on the NSAI website at www.nsai.ie.

It is clearly set out in the CPR what responsibilities importers have with regard to the products they trade. Failure to comply with any provision of the CPR would be considered a breach of the Regulation and may give rise to a prosecution.

I am a distributor

Distributors will have similar duty of care as that applicable to importers.

To comply with the CPR, distributors must:

- take due care that the product is compliant and has all documentation to verify compliance with the CPR;
- ensure instructions and safety information is in the appropriate language of the particular market;
- ensure the manufacturer has made the product identifiable and the manufacturers / importers contact details are available;
- ensure that products are stored or moved under such conditions that don't alter the products compliance;
- take corrective measures where necessary; and
- cooperate with requests from national authorities.

For more information on these responsibilities see Article 14 of Regulation (EU) No. 305/2011 available at the following link:

http://ec.europa.eu/enterprise/sectors/construction/legislation/index_en.htm

If a distributor places a product on the market under his trade name, or modifies a product, then he will be treated as the manufacturer.

Distributors should also check if a National Annex or a Standard Recommendation, which set out the appropriate minimum performance levels required for specific intended uses in Ireland, exists for the product. A list of these can be viewed on the NSAI website at www.nsai.ie.

It is clearly set out in the CPR what responsibilities distributors have with regard to the products they trade. Failure to comply with any provision of the CPR would be considered a breach of the Regulation and may give rise to a prosecution.

I am a specifier, designer or builder

The transition to harmonised European product standards represents a change for the construction industry. Traditionally, national product standards, Irish standards or British standards were prescriptive in relation to performance and the appropriate uses to which products could be put. The hENs differ in this regard, as they provide harmonised testing methods, declaration methods and conformity assessment rules. Ireland, like other Member States, is therefore free to set its own minimum requirements on the performance of building works and construction products incorporated into such works. In this regard, the NSAI has produced additional guidance to some hENs in the form of National Annexes or Standard Recommendations (SRs) which set out the appropriate minimum performance levels required for specific intended uses in Ireland. A list of these can be viewed on the NSAI website. Clients, specifiers, designers etc are free to demand performance in excess of these levels.

Whilst the CPR concerns itself with the conditions which apply when placing a product on the market, clients, specifiers, designers and builders etc should:

- when drawing up specifications, refer to the harmonised technical specifications and specifically to the requirements of individual characteristics when necessary;
- when choosing the products most suitable for their intended use in construction works,

review the manufacturer's declaration of performance;

- check National Annexes or Standard Recommendations which give guidance on appropriate minimum performance levels for specific intended uses in Ireland. A list of these can be viewed on the NSAI website at www.nsai.ie; and
- ensure compliance with the Building Regulations, in this regard all works should be carried out using *"proper materials...which are fit for the use for which they are intended and for the conditions in which they are to be used"* to ensure compliance with the Building Regulations. For further information on the Building Regulations see www.environ.ie.

Sources of additional information

European Commission – Enterprise and Industry

http://ec.europa.eu/enterprise/sectors/construction/legislation/index_en.htm

NANDO (New Approach Notified and Designated Organisations) Information System

<http://ec.europa.eu/enterprise/newapproach/nando/index.cfm>

National Standards Authority of Ireland

www.nsai.ie

Department of the Environment, Community and Local Government

www.environ.ie

Construction / business organisations

Building Materials Federation

www.ibec.ie/bmf

Construction Industry Federation

www.cif.ie

Irish Concrete Federation

www.irishconcrete.ie

Irish Timber Framed Manufacturers Association

www.itfma.ie

British Constructional Steelwork Association

www.steelconstruction.org

Table 1. Extract from Annex IV of Regulation (EU) No. 305/2011

CODE	PRODUCT AREA
1	PRECAST NORMAL/LIGHTWEIGHT/AUTOCLAVED AERATED CONCRETE PRODUCTS.
2	DOORS, WINDOWS, SHUTTERS, GATES AND RELATED BUILDING HARDWARE.
3	MEMBRANES, INCLUDING LIQUID APPLIED AND KITS (FOR WATER AND/OR WATER VAPOUR CONTROL).
4	THERMAL INSULATION PRODUCTS. COMPOSITE INSULATING KITS/SYSTEMS.
5	STRUCTURAL BEARINGS. PINS FOR STRUCTURAL JOINTS.
6	CHIMNEYS, FLUES AND SPECIFIC PRODUCTS.
7	GYPSUM PRODUCTS.
8	GEOTEXTILES, GEOMEMBRANES, AND RELATED PRODUCTS.
9	CURTAIN WALLING/CLADDING/STRUCTURAL SEALANT GLAZING.
10	FIXED FIRE FIGHTING EQUIPMENT (FIRE ALARM/DETECTION, FIXED FIREFIGHTING, FIRE AND SMOKE CONTROL AND EXPLOSION SUPPRESSION PRODUCT).
11	SANITARY APPLIANCES.
12	CIRCULATION FIXTURES: ROAD EQUIPMENT.
13	STRUCTURAL TIMBER PRODUCTS/ELEMENTS AND ANCILLARIES.
14	WOOD BASED PANELS AND ELEMENTS.
15	CEMENT, BUILDING LIMES AND OTHER HYDRAULIC BINDERS.
16	REINFORCING AND PRESTRESSING STEEL FOR CONCRETE (AND ANCILLARIES). POST TENSIONING KITS.
17	MASONRY AND RELATED PRODUCTS. MASONRY UNITS, MORTARS, AND ANCILLARIES.
18	WASTE WATER ENGINEERING PRODUCTS.
19	FLOORINGS.
20	STRUCTURAL METALLIC PRODUCTS AND ANCILLARIES.
21	INTERNAL & EXTERNAL WALL AND CEILING FINISHES. INTERNAL PARTITION KITS.
22	ROOF COVERINGS, ROOF LIGHTS, ROOF WINDOWS, AND ANCILLARY PRODUCTS. ROOF KITS.
23	ROAD CONSTRUCTION PRODUCTS.
24	AGGREGATES.
25	CONSTRUCTION ADHESIVES.
26	PRODUCTS RELATED TO CONCRETE, MORTAR AND GROUT.
27	SPACE HEATING APPLIANCES.
28	PIPES-TANKS AND ANCILLARIES NOT IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.
29	CONSTRUCTION PRODUCTS IN CONTACT WITH WATER INTENDED FOR HUMAN CONSUMPTION.
30	FLAT GLASS, PROFILED GLASS AND GLASS BLOCK PRODUCTS.
31	POWER, CONTROL AND COMMUNICATION CABLES.
32	SEALANTS FOR JOINTS.
33	FIXINGS.
34	BUILDING KITS, UNITS, AND PREFABRICATED ELEMENTS.
35	FIRE STOPPING, FIRE SEALING AND FIRE PROTECTIVE PRODUCTS. FIRE RETARDANT PRODUCTS.