



Briefing 13/07 February 2013

# CE Markings on construction products

To: All contacts

## Key issues

Construction Product Regulations will introduce CE marking to products covered by harmonised European Standards.

Range of assessments and verifications to be put in place.

New regulations to be introduced on 1<sup>st</sup> July 2013.

## 1. Context

The construction industry is facing the most significant change for a decade in the way in which construction products are sold in Europe. From 1 July 2013, under the Construction Products Regulation 2011 (CPR), it will become mandatory for manufacturers to apply CE marking to any of their products which are covered by a harmonised European standard (hEN) or European Technical Assessment (ETA). This is a major change as affixing of CE marking under the provisions of the existing Construction Products Directive (CPD) is currently voluntary in the UK. For those already CE marking under the CPD the transition should be straightforward.

The CPR applies to any individual, organisation or public body that places a construction product on the market, that is subject to compliance with a harmonised European standard in the course of a commercial activity, whether in return for payment or free of charge.

The Guidance Note on the Construction Products Regulation can be found [here](#). This publication is intended as a guide to the implications of CE marking under the CPR for manufacturers, importers, distributors, specifiers, certification and test bodies, and regulatory/enforcement authorities.

## 2. CE Markings

Legally the CE marking is not a quality mark. But, depending on the applicable directive, the CE marking can actually be considered to be a quality mark. Existing in its present form since 1993, the CE marking is a key indicator of a product's compliance with EU legislation and enables the free movement of products within the European Market. By affixing the CE marking to a product, a manufacturer is declaring, at their sole responsibility, conformity and with all the legal requirements to achieve CE marking and therefore ensuring validity for that product to be sold throughout the European Economic Area. As an indicator of a product's compliance with EU legislation, CE marking is not intended for the professional user or private consumer but national market surveillance and enforcement authorities.

CE marking states only that the product has been assessed before being placed on the market and so satisfies the legislative requirements (e.g. a harmonised level of safety) to be sold. It means that the product complies with all relevant essential requirements such as safety, health, environmental protection requirements or has been examined by a notified conformity assessment body.

### **3. Key concepts of the CPR**

The CPR builds upon the CPD (Construction Products Directive) and aims to break down technical barriers to trade in construction products within the European Economic Area. To achieve this, the CPR provides for four main elements:

- a system of harmonised technical specifications
- an agreed system of conformity assessment for each product family
- a framework of notified bodies
- CE marking of products.

The CPR harmonises the methods of assessment and test, the means of declaration of product performance and the system of conformity assessment of construction products, but not national building regulations. Some elements of the CPR came into force on 24 April 2011. The first changes apply to notified bodies and technical assessment bodies and the way in which they operate. The full legislation relating to manufacturers, importers and distributors comes into force on 1 July 2013, when the CPD will be replaced.

The harmonised technical specification for a product defines EEA-wide methods of assessing and declares all the performance characteristics required by regulations in any Member State which affect the ability of construction products to meet seven basic requirements for construction works. These cover:

- Mechanical resistance and stability
- Safety in case of fire
- Hygiene, health and environment
- Safety and accessibility in use
- Protection against noise
- Energy economy and heat retention
- Sustainable use of natural resources.

### **4. CE marking under the CPR**

CE marking enables a product to be placed legally on the market in any Member State but it doesn't necessarily mean that the product will be suitable for all end uses in all Member States. CE marking indicates that a product is consistent with its Declaration of Performance (DoP) as made by the manufacturer. The declaration varies according to the particular harmonised technical specification covering the product.

As such, decision makers (e.g. designers and specifiers) should understand the relevant performance requirements for the product. By making a DoP the manufacturer, importer or distributor is assuming legal responsibility for the conformity of the construction product with its declared performance.

### **5. Use of CE marking**

As from 1 July 2013, construction products placed on the market in the UK and conforming to a hEN or an ETA will have to be accompanied by a DoP and will need to have the CE marking. Drawing up a DoP and affixing the CE marking is the responsibility of the manufacturer or their authorised representative, depending who is placing the product on the market. Products may need to comply with other regulations and laws for them to be used or sold.

For construction products covered by a hEN which have been individually manufactured or custom-made in a non-series process for a specific order, installed in a single identified construction works, the performance assessment part of the applicable system of AVCP may be replaced by Specific Technical Documentation demonstrating equivalence to the hEN.

### **6. Implications for local authorities**

Examples of products covered by harmonised European standards (hEN) and so subject to the regulations are aggregates and bituminous mixtures, road surface dressings and slurry treatments, manufactured signs

and concrete products as well as a range of others. Local authorities with joinery shops manufacturing their own external windows and door sets will also have to CE mark these products.

There is currently some thought that if you are a local authority and provide the products only for use in your own authority and don't offer them on the open market that you are exempt from having to CE mark your products. However an individual authority would need to take their own legal advice on this. However, local authorities should be aware that it takes time to get CE marking and any delay now will probably result in you being unable to meet the 1/7/2013 deadline.

A range of supporting evidence will be needed depending on the type of testing undertaken, the product and the hEN.

CE markings can take the form of a hardcopy certificate produced with the product, downloadable certificates from the organisations website or a certificate delivered with every batch or load if appropriate.

## **7. Notified bodies**

Notified bodies are the product certification bodies, Factory Production Control (FPC) certification bodies and testing laboratories which are considered to be competent to carry out the conformity assessment tasks. They are approved by their respective Member States to carry out certain designated tasks, and then notified to the European Commission and other Member States. Once a harmonised technical specification (hEN) is available for their product, a manufacturer required to use a notified body will be able to approach any such body in the EEA that has been notified for the appropriate hEN.

With respect to the function of notified bodies involved in the assessment and verification of consistency of performance for construction products, distinction must be made between: a testing laboratory (which measures, examines, tests, calibrates or otherwise determines the characteristics or performance of materials or construction products), a factory production control certification body (possessing the necessary competence and responsibility to carry out factory production control certification in accordance with given rules of procedure and management) and a product certification body (possessing the necessary competence and responsibility to carry out product certification in accordance with given rules of procedure and management).

## **8. Tayside Contracts**

Tayside Contracts is the commercial trading arm of the Councils of Angus, Dundee City and Perth and Kinross Councils providing catering, cleaning, roads maintenance, vehicle maintenance and winter maintenance throughout the Tayside area of Scotland.

They have decided to CE mark their surface dressing products (amongst other products). This entailed undertaking 'Type approval installation trials' (TAITs) for all processes involved which took 12 months whilst some of the testing processes required moving from current established British Standard testing regimes to the required European standards to ensure they met the hENs. They also had to ensure all of the products going into the process were CE marked for example, the bitumen, the chippings etc. Supporting evidence was needed in the form of Factory Production Control (FPC), Declaration of Performance (DoP) and either a TAIT or an Initial Type Test (ITT). A notified body also has to carry out an initial inspection, continuous surveillance, type testing and audit testing. Tayside Contracts continues to maintain BSEN 150 9001:2008 quality certification and national highway sector scheme approval for the processes they are pursuing CE marking for.

The steps to be taken and level of involvement of a notified body in the assessment and verification procedure depends upon the product type and attestation of conformity systems required for that product.

## **9. APSE Comment**

Not all local authorities or public sector delivery organisations will be affected by the regulations but some certainly will be. Examples include those with quarries, surface treatment operations, sign shops and joinery

shops. APSE would urge all those potentially affected to take specific legal advice from their solicitors to understand the degree to which they will be affected.

The guidance note on Construction Products Regulation brings together and clarifies the previous guidance and this will be appreciated by those organisations affected. However there is no doubt that there will be some extra work involved in testing products and arranging conformity with the regulations and resources will have to be allocated to this in the first instance.

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