

NB: Unofficial translation; legally binding texts are those in Finnish and Swedish

Act

on the Type Approval of Certain Construction Products

Issued in Helsinki 21 December 2012

In accordance with the decision of Parliament the following shall be enacted:

Chapter 1

General provisions

Section 1

Purpose of the Act

This Act lays down provisions on methods of ascertaining whether a construction product meets the essential technical requirements (*suitability*) laid down in the Land Use and Building Act (132/1999) or regulations based thereon.

Section 2

Scope

This Act shall apply to a construction product not included in the scope of the harmonised product standard and whose manufacturer has not applied for a European technical assessment in accordance with Regulation (EU) No 305/2011 of the European Parliament and of the Council, hereinafter *Construction Products Regulation*, which lays down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC.

This Act shall also apply to the products referred to in subsection 1 when they are used for building in land and water areas. The Act shall not, however, apply to construction products approved by the Finnish Transport Agency for use in road maintenance.

Section 3

Methods of ascertaining a construction product's suitability

A construction product's suitability can be ascertained through

- 1) type approval;
- 2) verification certificate; or
- 3) production quality control.

Section 4

Definitions

In this Act,

1) *construction product* means a permanent construction part, structure, or component, product or equipment that is permanently affixed to a construction object and for which essential technical requirements have been defined in the Land Use and Building Act or regulations based thereon, or a component required for the installation of the product referred to above;

2) *type approval body* means a body authorised by the Ministry of the Environment to grant type approvals;

3) *approved body* means a body authorised by the Ministry of the Environment to issue verification certificates;

4) *certifying body for quality control* means a body approved by the Ministry of the Environment and which performs confirmations of conformity for building products;

5) *a body* means any body referred to in subsections 2—4.

Chapter 2

Type approval

Section 5

A body or authority granting type approval

A type approval body grants type approvals. The Ministry of the Environment may also grant type approvals for special reasons.

Section 6

Use of type approval

A construction product's suitability will be ascertained by means of type approval, if

1) the construction product's essential technical properties have a significant bearing on the fulfilment of the construction project's essential technical requirements;

2) the construction product type is widely used;

3) the type approval can be used to simplify or standardise measures taken by the building supervision authority.

In addition, certification of quality control is a prerequisite for type approval.

Further provisions on the type approval of construction products and certification of quality control may be issued under a Ministry of the Environment decree.

Section 7

Application for type approval

The manufacturer of a product is entitled to apply for type approval.

A statement on the intended purpose of use of the construction product shall be included in the application. A description of the construction

product and its production process as well as the required test reports, calculations, drawings and other proof of suitability, shall be appended to the application. The required installation, use, maintenance and storage instructions, as well as technical drawings and plans and a statement regarding the required production quality control, shall be attached to the description of the construction product and its production process. The application must include a notification of which certifying body the manufacturer uses for quality control, and a declaration on the impartiality of the quality control in question must be appended to the notification.

Further provisions on the application for type approval and the required declarations may be issued under a Ministry of the Environment decree.

Section 8

Type approval decision

The type approval decision or its attachment shall contain the following information:

1) the manufacturer's and applicant's name and registered office;

2) name and description of the product;

3) the planned use of the product;

4) conditions for approval;

5) name and registered office of the certifying body for quality control and the date of the quality control agreement;

6) marking of the product;

7) required planning information, installation instructions, use and maintenance instructions, storage instructions;

8) validity period of approval.

Type approval is granted for a specific period of time, for a maximum of five years at a time. If the product falls under the scope of CE-marking, the product's type approval period will end.

Further provisions on the type approval decision may be issued under a Ministry of the Environment decree.

Section 9

Type approval marking

A type-approved construction product shall be marked in accordance with type approval requirements. Such a marking shall be affixed to the product or, where this is not possible, to the packaging or accompanying documentation. Use of the type approval marking shall be discontinued upon the expiry of the type approval validity period.

Further provisions on the marking required for type approval may be issued under a Ministry of the Environment decree.

Section 10

Surveillance relating to type approval

The purpose of quality control certification of a type-approved construction product is to ensure that the product satisfies the requirements of type approval and meets the requirements specified in the decision on type approval.

Quality control certification comprises the manufacturer's internal production quality control and testing. The certifying body for quality control certifies internal production quality control by carrying out an initial inspection of such control, by monitoring quality control continuously, and by evaluating and approving quality control.

Further provisions on quality control may be issued under a Ministry of the Environment decree.

Chapter 3

Verification certificate

Section 11

Body issuing verification certificates

An approved body issues verification certificates.

Section 12

Use of the verification certificate

A construction product's suitability shall be ascertained by means of a verification certificate, if

1) the construction product's essential technical properties have an influence on the fulfilment of the construction project's essential technical requirements;

2) based on its properties, the product is suitable for approval by verification certificate; and

3) the construction product type is widely used and the verification certificate can be used to simplify or standardise measures taken by the building supervision authority.

A further prerequisite for the use of a verification certificate is that the manufacturer carries out internal production quality control

and testing. The certifying body for quality control certifies internal production quality control by carrying out an initial inspection of quality control, by monitoring quality control continuously, and by evaluating and approving quality control.

An approved body will decide on the information to be given on verification certificates, by product or product group. An approved body shall issue the verification certificate, either on the basis of continuous control of a product's manufacturing or a delivery batch-specific sampling inspection.

Further provisions on the verification certificate of a construction product and the related certification of quality control may be issued under a Ministry of the Environment decree.

Section 13

Application for a verification certificate

The manufacturer of a product is entitled to apply for a verification certificate.

Inspection results and other statements, as well as information on production quality control needed in order to assess the use and properties of the construction product, shall be attached to the application.

Further provisions on the application for a verification certificate and the required declarations may be issued under a Ministry of the Environment decree.

Section 14

Awarding of verification certificate

The verification certificate or its attachment shall contain the following information:

1) the manufacturer's and applicant's name and registered office;

2) name and description of the product;

3) necessary information on the product's properties and usage, and other facts related to the use of the product;

4) information on the evaluation methods.

A verification certificate is granted for a specific period of time, for a maximum of five years at a time. An approved body may, if necessary, require a temporary evaluation as assurance that the properties of the product comply with what is stated in the declaration made by the manufacturer. Products that have been inspected batch-specifically may only be taken into use after an approved body has issued

a verification certificate approving the batch for use.

Chapter 4

Production quality control

Section 15

Use of production quality control

Production quality control is used to ascertain that the construction product meets essential technical requirements, in cases where the product's suitability cannot be ascertained by type approval or a verification certificate.

Section 16

Contents of production quality control

By way of quality control, the manufacturer maintains internal production quality control and testing. The certifying body for quality control certifies internal production quality control by carrying out an initial inspection of quality control, by monitoring quality control continuously, and by evaluating and approving quality control. Quality control may include testing of products obtained from the production plant and the market.

Further provisions on the use of production quality control may be issued under a Ministry of the Environment decree.

Chapter 5

Construction-site specific certification

Section 17

Construction-site specific attestation of suitability

A potential builder shall clarify construction-site specifically that the construction product meets the specified essential technical requirements, if the product's suitability has not been ascertained by other means.

The building supervision authority may require the potential builder to provide proof that the construction product meets the specified essential technical requirements, if there is reason to suspect that the product does not meet the requirements. The potential builder shall bear any costs incurred.

Further provisions on construction-site specific attestation of suitability may be given by Ministry of the Environment decree.

Chapter 6

Authorised and approved bodies

Section 18

Competence to authorise and approve a body

The Ministry of the Environment shall authorise a body to grant type approval, authorise a body to issue verification certificates, or approve a body to act as a certifying body for quality control, if the body meets the requirements specified for it.

Section 19

Application to become a type approval body

An application to authorise a body as a type approval body shall contain a detailed list of the product groups for which the body seeks to act as a type approval body.

The applicant shall present information considered adequate

- 1) on its technical competence and independence;
- 2) on the staff needed to perform the work;
- 3) on equipment;
- 4) on other financial prerequisites; and
- 5) on its possession of valid liability insurance or an equivalent arrangement, presented in the form of a statement.

Further provisions on applications to become a type approval body may be issued under a Ministry of the Environment decree.

Section 20

Application to become an approved body issuing verification certificates

An application to become a body approved to issue verification certificates shall contain a detailed list of the products and product groups for which the body seeks to issue verification certificates. Together with the application, but no later than before commencing operations, an approved body shall provide a detailed statement of the basis on which a verification certificate will be issued for each product or product group, insofar as definition of technical criteria is the task of the approved body.

The applicant shall present information considered adequate to demonstrating that it possesses the necessary technical competence and independence, and a statement of valid liability insurance or an equivalent arrangement.

Further provisions on the application to become an approved body issuing verification certificates may be issued under a Ministry of the Environment decree.

Section 21

Application to become a certifying body for quality control

An application to become a certifying body for quality control shall contain a list of products and product groups for which the applicant is seeking to become a certifying body for quality control.

The applicant shall present information considered adequate to demonstrating that it possesses the necessary competence and independence, and a statement of valid liability insurance or an equivalent arrangement.

Further provisions on the application to become a certifying body for quality control may be issued under a Ministry of the Environment decree.

Section 22

General requirements concerning authorised bodies

Such bodies shall:

1) have technically skilled staff, the necessary equipment and sufficient financial resources for adequately performing their tasks; and

2) use employees whose reliability and independence with regard to the organisations and construction products to be assessed has been ascertained.

A body may act as a body granting type approval or issuing a verification certificate, or as a certifying body for quality control, for the same construction product, provided that these different procedures have been operationally separated to a sufficient degree to ensure independence.

Further provisions on the requirements for bodies may be issued under a Ministry of the Environment decree.

Section 23

Assessment of expertise, reliability and independence of body

When assessing expertise, attention should be paid to the training and experience of staff, as well as to competence demonstrated in operations.

An applicant to become such a body may be considered reliable if no member or deputy member of the board of directors or supervisory board, no managing director, no active partner or anyone in another comparable position, has

1) during the last five years, been issued with a criminal conviction for actions which demonstrate that he/she is unsuitable to serve in an authorised or approved body; or

2) been banned from participating in business operations.

An applicant shall be considered independent if the applicant or an individual employed by it is not engaged in, or is not commercially, financially or otherwise dependent on anyone engaged in, the manufacture, import, trade, design, marketing or repair of construction products. Further, an applicant must not be dependent on an organisation comprising those engaged in such operations.

The Ministry of the Environment may require an external assessment of the body's competence, reliability and independence.

Section 24

Contents of the decision on authorisation and approval

The Ministry of the Environment may authorise or approve a body to carry out its tasks for a fixed term or until further notice. Authorisation or approval may be more limited than the operations proposed in the application. Conditions necessary for carrying on operations and their surveillance may be attached to the decision.

A condition, according to which the operations must commence within the specified time period, at the risk of the authorisation or approval becoming void, may be attached to the decision.

Section 25

Monitoring of the requirements for authorisation and approval

The Ministry of the Environment shall monitor compliance with this Act and the provisions issued under it, and other provisions issued regarding the approval of construction products, as well as compliance with the conditions of the decision by the Ministry of the Environment regarding authorisation and approval. Building

supervision authorities shall assist the Ministry of the Environment in its monitoring duties.

An authorised body is obliged to provide the Ministry of the Environment with any information necessary for monitoring purposes. Such a body shall immediately notify the Ministry of the Environment of any changes in ownership, persons responsible for the operations and other significant changes regarding its operations.

The Ministry of the Environment has the right to carry out inspections necessary for monitoring purposes at the body's place of business and in its laboratory premises, in order to verify the operating conditions. However, such an inspection may not be performed on premises used as a permanent place of residence.

Section 26

Cancellation of verification certificate

The Ministry of the Environment may cancel a verification certificate if the verification certificate was issued for a product that does not meet the requirements laid down in the Land Use and Building Act, or in provisions issued under it.

Section 27

Suspending operations

The Ministry of the Environment may issue a written warning to an authorised or approved body, or suspend the body's operations if:

- 1) the operations do not comply with the provisions issued in this Act or pursuant to it, or with other provisions concerning the approval of construction products;
- 2) the operations have otherwise been carried out inappropriately; or
- 3) an authorised or approved body has violated the conditions imposed by an authorisation or approval decision.

A decision on suspending operations shall be observed regardless of any appeal.

Section 28

Withdrawal of authorisation and approval

The Ministry of the Environment shall withdraw authorisation or approval if:

- 1) an authorised or approved body does not maintain regular operations or ends its operations;

- 2) an authorised or approved body no longer meets the requirements of authorisation or approval and has not rectified any defects in them within a set period;

- 3) the body is insolvent; or

- 4) a representative of the body, who is in a position of authority, has been banned from participation in business operations.

The Ministry of the Environment shall also withdraw its authorisation or approval if the operations of a body have been interrupted and the body has not eliminated the reasons for this interruption within a reasonable time.

Any decision on the withdrawal of the authorisation or approval shall be observed regardless of an appeal.

Chapter 7

Requirements concerning operations of an authorised and approved body

Section 29

Certification of quality control

The certifying body for quality control shall certify the internal production quality control system, whenever a construction product is subject to type approval, a verification certificate or production quality control.

Section 30

Quality control report

The certifying body for quality control shall keep records of the measures performed in the certification of the quality control system, and of their results. The documentation shall be kept for a minimum of ten years.

The certifying body for quality control shall annually report the results of its type approval quality control to the authority that approved the type approval: either the type approval body or the Ministry of the Environment. The certifying body for quality control shall annually report the results of its verification certificate quality control to the approved body. The certifying body for quality control shall annually report the results of production quality control to the manufacturer.

If a serious defect is detected in connection with quality control that would essentially jeopardise fulfilment of the construction project's essential technical requirements and there is reason to suspect that defective products are used for

building, the certifying body for quality control shall notify the Ministry of the Environment of the matter without delay.

Section 31

Liability for acts in office

Provisions and regulations concerning criminal liability for acts in office shall apply to the employees of a type approval body or approved body when they are executing tasks under this Act. Liability for damages is provided for in the Tort Liability Act (412/1974).

Section 32

Confidentiality

In addition to the provisions of the Act on the Openness of Government Activities (621/1999) and notwithstanding provisions on confidentiality, confidential information obtained in the performance of duties referred to in this Act may be disclosed to

- 1) a State and municipal authority for performing duties pursuant to this Act;
- 2) market surveillance authorities for market surveillance purposes;
- 3) the police or prosecuting authority, for the purposes of investigating a crime;
- 4) a court of law.

Section 33

Liability insurance

A body shall have in place liability insurance for potential damages, or an equivalent arrangement.

Section 34

Reference to Criminal Code

Any breach of confidentiality laid down in section 32 herein is punishable in accordance with Chapter 38, section 1 or 2 of the Criminal Code (39/1889) unless the act is punishable under Chapter 40, section 5 of the Criminal Code, or unless a more severe penalty is laid down elsewhere in law.

Section 35

Unauthorised approval of construction products

Anyone who offers services relating to the approval of construction products referred to in sections 3 or 29, without authorisation or approval by the Ministry of the Environment as required under section 18, shall be fined or sentenced to a maximum of three months' imprisonment, *for unauthorised approval of construction products*.

Chapter 8

Miscellaneous provisions

Section 36

Appeal against decisions by an authorised body

Subject to an application, a rectification of a decision by an authorised body may be requested from the party that issued the decision, as provided in the Administrative Procedure Act (434/2003).

Decisions made on requests for rectification are open to appeal before the Administrative Court, as provided in the Administrative Judicial Procedure Act (586/1996). Decisions made by the Administrative Court are open to appeal solely if the Supreme Administrative Court grants leave to appeal.

Section 37

Appeal against the Ministry's decision

An appeal against a decision by the Ministry of the Environment under this Act shall be lodged as provided in the Administrative Judicial Procedure Act.

Section 38

Mutual recognition

If a construction product has been approved for use by a Member State of the European Economic Area or Turkey, such approval will be deemed to provide reliable information on the construction product's properties. A potential builder may use such information when establishing whether the construction product meets the essential technical requirements laid down in the Land Use and Building Act, or thereunder.

Chapter 9

Entry into force

Section 39

Entry into force

This Act enters into force on 1 July 2013.

This Act repeals the Act on the approval of construction products (laki rakennustuotteiden hyväksynnästä 230/2003).

Section 40

Transitional provisions

This Act shall also apply to matters pending within authorised bodies, when this Act enters into force.

A decision by the Ministry of the Environment on the authorisation of bodies to grant type

approval or certification of product declarations, or any approval of bodies to perform quality control of load-bearing construction products, which was issued prior to the entry into force of this Act, shall remain valid until otherwise decided under this Act.

Any decision with regard to type approval, or the certification of a product declaration issued prior to the entry into force of this Act, shall remain valid until its expiry or the expiry of the transitional period of a harmonised standard created for the product.

Any reference to the Act on the approval of construction products in other acts or regulations issued under it shall be deemed to refer to corresponding provisions in this Act, unless otherwise provided herein.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Helsinki, 21 December 2012

President of the Republic

SAULI NIINISTÖ

Minister of Housing and Communications *Krista Kiuru*