

# Construction products placed or made available on the domestic market

Placing or making construction products available on the domestic market is strictly regulated by the applicable guidelines and subject to the supervision of the competent authorities. The regulations are set out among others in the Construction Products Act of 16 April 2004 (hereinafter referred to as the "Act").

The Regulation No. 305/2011 of the European Parliament and of the Council of March of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (hereinafter referred to as the "Regulation") stipulates that a construction product means any product or kit (i.e. a set of at least two separate components) produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works. A construction product can be placed or made available on the domestic market if it is fit for use in the construction process in the scope consistent with its performance characteristics and intended use, which means that its performance characteristics allow properly designed and built construction works in which the product is to be used in a permanent manner to satisfy the basic requirements in terms of mechanical resistance and stability; safety in case of fire; hygiene, health and the environment; safety and accessibility in use; protection against noise; energy economy and heat retention; and sustainable use of natural resources (detailed description of the requirements applicable to construction products are set forth in Annex I to the Regulation).

A regional inspector of building control and the Chief Inspector of Building Control are the bodies competent for issues related to construction products placed or made available on the domestic market, and they are also market surveillance authorities. Their responsibilities include in-

specting construction products placed or made available on the domestic market and conducting the required administrative procedures in this area. Responsibilities of the Chief Inspector of Building Control also include keeping the Register of Questioned Construction Products (hereinafter referred to as the List), which should be publicly available. The Register details the data and information on construction products required to be labelled with the construction mark which are inconsistent with the requirements set out in the Act including in particular: data enabling a questioned construction product to be identified and information on the type and scope of inconsistency of the questioned construction product; measures used with respect to the questioned construction product; and risks which the questioned construction product can cause along with the description of the risks.

Inspections are conducted *ex officio* or at the request of the President of the Office of Competition and Consumer Protection (*Polish UOKiK*). The body has extensive powers of control, e.g. the competent body or a person acting under the authority of the latter is authorised to enter the construction site, premises or rooms where the construction products or documents subject to control are located. If the inspected construction product may pose a risk to life, health, property or environment, the inspecting entity is authorised to request the inspected vendor – if the manufacturer or importer has a registered office outside of the territory of Poland – to present the required technical documentation within the prescribed time limit. Furthermore, the controlling body may during the inspection audit documents falling

within the scope of the inspection and request the inspected entity to make a copy of and translate the documents into Polish; examine the construction products within the scope of the inspection; ask persons to see their IDs in order to ascertain their identity; ask the inspected entity to provide written or oral explanations regarding issues falling within the scope of the inspection; hear persons in the capacity of a party to proceedings, witness or expert; consult experts; secure evidence, construction products, premises or transport means; and collect samples of construction products for testing free of charge. The results of the inspection are documented in the inspection report which is made available to the inspected entity or the person authorised by the inspected entity. The inspected party may have its comments included in the inspection report or submit them in writing within seven days of making the inspection report available for signature, while the competent body is required to respond to the submitted comments immediately but not later than within 14 days of receiving them.

The identified irregularities may result in severe financial penalties, which, depending on the gravity of infringement can amount to up to PLN 100,000.

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