

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

on the external blinds and awnings and their performance requirements, including safety, under EN 13561

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC<sup>1</sup>, acknowledges two main alternatives to establish classes of performance in relation to the essential characteristics of construction products. According to Articles 27(1) and 60(f), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose, on the basis of a revised mandate. In accordance with Article 27(2), first subparagraph, where the Commission has established such classes, the European standardisation bodies shall use those classes in harmonised standards.

According to the definition comprised in Article 2(7) of Regulation (EU) No 305/2011, “class” means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product. Classes in Regulation (EU) No 305/2011 are thus always expressing a given range of determined performance of the product.

Moreover, Regulation (EU) No 305/2011 does not distinguish, unlike its predecessor Council Directive 89/106/EEC, different kinds of classes, depending on their origin. Classes of performance established by the Commission and such classes established by the European standardisation bodies are thus to be acknowledged and respected quite in the same manner.

Furthermore, the whole classification of performance would need to be defined open-ended, entailing all possible levels of performance in relation to a given essential characteristic for the products covered by the standard in question. Otherwise, also a threshold level for such performance would be established at the same time.

The European product standard EN 13561 on external blinds and awnings and their performance requirements, including safety, was initially adopted by European Committee for Standardisation (CEN) in 2004 and amended in 2008. It contains classifications for the performance of the products covered by it notably in relation to its essential characteristic resistance to wind load, with four classes of performance introduced.

According to the available information, these existing classes are not sufficient for the products at hand, since new kinds of products have been developed more recently, representing a higher wind resistance than before. The use of the existing classes may also lead in some cases to safety problems linked to the fixing of these products. For these reasons, the classification of the performance in question would need to be enlarged, but differentiated amongst the various product subfamilies covered by this standard EN 13561: owing to the resistance of fixing systems, for folding arm awnings only three classes would be appropriate, and the three additional classes, compared to the existing ones, would be applicable only for external blinds with fabric running in lateral guide rails and pergola awnings.

These objectives are to be achieved by adding three more classes for the essential characteristic resistance to wind load to the classification included in the standard EN 13561, as published by CEN in March 2016, and by differentiating the use of these classes amongst the product subfamilies covered by this standard, in particular for folding arm awnings, for external blinds with fabric running in lateral guide rails and pergola awnings. For other kinds of awnings, vertical roller blinds, marquisolettes, and insect screens, the new version of the standard EN 13561 does thus not represent any change to the existing classification.

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<sup>1</sup> OJ L 88, 4.4.2011, p. 5.

Since under the application of Regulation (EU) No 305/2011 the introduction of such new classifications into a harmonised standard by the European standardisation bodies themselves would require the issuing of a new revised mandate, which has not taken place, it has been considered more opportune to proceed with this draft delegated Regulation.

It has not been considered appropriate to include other performance classifications contained in the standard EN 13561 within the scope of the draft Regulation, because pursuant to Regulation (EU) No 305/2011 such classifications comprised in harmonised standards, the reference to which has been published under Directive 89/106/EEC in the Official Journal of the European Union, are to be deemed applicable under Regulation (EU) No 305/2011 without any further actions necessitated.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

*To be added subsequently*

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Pursuant to Article 27 of Regulation (EU) No 305/2011, classes of performance may be established in relation to the essential characteristics of construction products. According to Articles 27(1) and 60(f), this can be done by delegated acts of the Commission. In accordance with Article 27(2), first subparagraph, where the Commission has established such classes, the European standardisation bodies shall use those classes in harmonised standards.

According to Article 2(7) of Regulation (EU) No 305/2011, “class” means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product. Regulation (EU) No 305/2011 does not distinguish different kinds of classes. Classes of performance established by the Commission and such classes established by the European standardisation bodies are thus to be acknowledged and respected quite in the same manner.

Since under the application of Regulation (EU) No 305/2011 the introduction of new classifications of performance into harmonised standards by the European standardisation bodies themselves would require the issuing of new revised mandates, which has not taken place, it has been considered more opportune to proceed with this draft delegated Regulation.

For these reasons, the draft Regulation should be adopted to establish new classes of performance for external blinds and awnings, under the European standard EN 13561.

The draft Regulation conforms to the principle of proportionality. It results in alleviating certain difficulties caused by the impact of Regulation (EU) 305/2011 on the establishment of classification systems for the performance of construction products, and therefore can be assessed to benefit the whole European construction sector.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC<sup>2</sup>, and in particular Article 27(1) thereof,

Whereas:

- (1) Pursuant to Article 27(1) of Regulation (EU) No 305/2011, the Commission may adopt delegated acts in accordance with Article 60(f), to establish classes of performance in relation to the essential characteristics of construction products.
- (2) Where the Commission has not established such classes, according to Article 27(2) of Regulation (EU) No 305/2011 they may be established by the European standardisation bodies, but only on the basis of a revised mandate.
- (3) The European product standard EN 13561 on the external blinds and awnings contains a classification of performance in relation to its essential characteristic resistance to wind load. The new classification in relation to this characteristic represents a step forward for the consolidation of the internal market for the products in question.
- (4) For this new classification, a revised mandate has not been issued,
- (5) Therefore, the draft Regulation should be adopted to establish this new classification system to be used for products covered by EN 13561.

HAS ADOPTED THIS REGULATION:

*Article 1*

The performance of external blinds and awnings, in relation to their essential characteristic resistance to wind load, shall be classified in accordance with the classification system set out in Table 1 of the Annex 1.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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<sup>2</sup> OJ L 88, 4.4.2011, p. 5.

Done at Brussels,

*For the Commission  
The President  
[...]*

## ANNEX

Table 1: Classes for resistance to wind load

	External blind with fabric running in lateral guide rails, Pergola awning,						
	Trellis arm awning, pivot arm awning, slide arm awning, vertical roller blind, marquiselette, façade awning, skylight awning, conservatory awning, insect screen						
	Folding arm awning						
Classes	0	1	2	3	4	5	6
Nominal wind pressure $p_N$ (N/m <sup>2</sup> )	< 40	40	70	110	170	270	400
Safety wind pressure $p_S$ (N/m <sup>2</sup> )	< 48	48	84	132	204	324	480