

THE MINISTRY OF ENVIRONMENTAL PROTECTION, PHYSICAL PLANNING AND CONSTRUCTION

3295

Pursuant to Article 63 of the Construction Products Act (Official Gazette 86/2008), the Minister for Environmental Protection, Physical Planning and Construction hereby issues the

ORDINANCE ON SUPERVISION OF CONSTRUCTION PRODUCTS

I GENERAL PROVISIONS

Article 1

This Ordinance lays down the carrying out of administrative and inspectional supervision of manufacturing, placing on the market, distribution and incorporation of construction products (hereinafter: supervision of construction products), co-operation with and informing of regulatory bodies carrying out that supervision and of other bodies whose scope of activities covers construction products, measures to prohibit the placing of construction products on the market, their distribution and incorporation and the manner and the party obligated to withdraw unincorporated construction products.

Article 2

Inspectional supervision of construction products shall be carried out by the economic inspector of the State Inspectorate (hereinafter: economic inspector) and the construction inspector of the Ministry of Environmental Protection, Physical Planning and Construction (hereinafter: construction inspector) within their competencies and their official duties in accordance with the plan of inspectional supervision and on the basis of their knowledge concerning breaches of the Construction Products Act.

II SUPERVISION OF MANUFACTURING, PLACING ON THE MARKET AND DISTRIBUTION OF CONSTRUCTION PRODUCTS

Correction of irregularities

Article 3

The correction of irregularities regarding the manufacturing of the construction products shall be ordered to the manufacturer of the construction product by the economic inspector if it is established that the manufacturer:

- does not carry out in the specified manner, the mandatory activities of conformity assessment, or
- does not satisfy the specified conditions regarding carrying out the activities of conformity assessment.

Issuing a decision on the correction of irregularities referred to in paragraph 1 of this Article does not preclude the obligation of issuing a decision on the correction of irregularities regarding placing on the market or distribution of a construction product.

Article 4

The correction of irregularities regarding placing on the market or distribution of a construction product shall be ordered to the manufacturer, his authorised representative, importer or distributor of the construction product by the economic inspector if it is established that:

- the mandatory activities of conformity assessment have not been carried out for the given construction product, or
- the given construction product was placed on the market or distributed against the rules and regulations, apart from reasons laid down in Article 5 of this Ordinance.

Prohibition of placing on the market and distribution of construction products

Article 5

The prohibition of placing on the market and distribution of a construction product for which it has been established that it was placed on the market and distributed without the certificate of conformity, technical instructions or with irregular technical instructions, without the conformity mark or with improper mark, shall be ordered by decision of the economic inspector to the manufacturer, his authorised representative, importer or distributor of the given construction product.

The prohibition referred to in paragraph 1 of this Article refers to every sample and to the whole quantity of the given construction material in the market of the Republic of Croatia.

Article 6

The prohibition of placing on the market and distribution of a construction product for which it has not been ensured that its technical characteristics or usability during its distribution would remain unchanged shall be ordered by decision of the economic inspector to the distributor of the given construction product.

The prohibition referred to in paragraph 1 of this Article refers to samples or quantities of the given construction product that are covered by the specific inspectional supervision in which the alteration of characteristics of the construction product has been established.

III SUPERVISION OF THE INCORPORATION OF CONSTRUCTION PRODUCTS

Correction of irregularities

Article 7

The construction inspector has the right and duty to order by issuing a decision to the contractor or supervising engineer, the correction of irregularities if he establishes that a construction product is being incorporated whereas the person responsible on the construction site did not establish in a specified manner whether:

- the construction product was delivered with technical instructions,
- the data from the technical instructions correspond to the data on the conformity mark, or

- technical characteristics of the construction product and data relevant for its incorporation, use and effect on the characteristics and longevity of the structure, especially its expiration, are in conformity with the characteristics and data laid down in the main design.

Article 8

The construction inspector has the right and duty to order by issuing a decision to the contractor, the correction of irregularities if he establishes that a construction product is being incorporated whereas:

- it was delivered without technical instructions,
- the data from the technical instructions do not correspond to the data on the conformity mark,
- technical characteristics of the construction product and data relevant for its incorporation, use and effect on the characteristics and longevity of the structure, especially its expiration, are not in conformity with the characteristics and data laid down in the main design,
- it is not being incorporated in accordance with technical instructions, or
- it is transported, stored, incorporated and handled in a way that does not ensure the preservation of its technical characteristics.

IV PROHIBITION OF PLACING ON THE MARKET, DISTRIBUTION AND INCORPORATION OF A CONSTRUCTION PRODUCT THAT DOES NOT FULFIL SPECIFIED REQUIREMENTS

Misgivings regarding a construction product

Article 9

If during the supervision of a construction product substantiated misgivings about the construction product arise, even if the mandatory activities of conformity assessment were carried out or are being carried out, the person carrying out an administrative supervision, an economic inspector or a construction inspector shall demand the carrying out of a control procedure from an expert.

Decision on the prohibition of placing on the market, distribution and incorporation of a construction product

Article 10

If in a control procedure it is established that a construction product does not fulfil specified requirements, the person carrying out the administrative supervision, an economic inspector or a construction inspector shall order by decision to the manufacturer, his authorised representative, importer or distributor of the construction product the prohibition of placing on the market and distribution of a construction product and, with the same decision, prohibit the incorporation of a construction product to all potential contractors.

The decision referred to in paragraph 1 of this Article shall include the expenses of the carried out control procedure and the person liable for payment of such expenses.

The decision referred to in paragraph 1 of this Article shall be published on the official internet pages of the State Inspectorate and the Ministry of Environmental Protection, Physical Planning and Construction (hereinafter: Ministry).

Article 11

A construction product for which a decision has been issued prohibiting placing on the market, distribution and incorporation shall be considered a construction product whose usability is unproven and in every instance of its incorporation measures must therefore be undertaken that are laid down by a special act that regulates the construction.

Control procedure

Article 12

The control procedure is a procedure for determining whether or not the construction product possesses the specified technical characteristics and fulfils other specified requirements. The control procedure shall be carried out by examining samples of a construction product or by other necessary activities in accordance with a programme determined by the person carrying out that procedure.

Article 13

Upon the request of a body that is carrying out the supervision of the construction product, the control procedure shall be carried out by a person:

- who is authorised in accordance with a special regulation to carry out the activities of conformity assessment and issuing the certificate of conformity of the construction product for which the control procedure is being carried out,
- who is notified to the European Commission to carry out the activities of conformity assessment and/or issuing the certificate of conformity of the construction product for which the control procedure is being carried out,
- who, for carrying out necessary control procedures, uses the method of determining technical characteristics of a construction product and fulfilling other requirements, and is accredited by an accrediting body recognised in the Republic of Croatia, or
- to whom has been given authorisation, on the basis of a special regulation, or who is recognised as capable of carrying out methods used in the control procedure to determine whether or not the construction product has the specified technical characteristics and fulfils other requirements.

Article 14

The control procedure cannot be carried out by a person, nor can a person participate in it, who in the period of three years before the date on which misgivings about the characteristics of a construction product was determined, participated in a procedure of conformity assessment and/or in issuing of the certificate of conformity of the product in which characteristics the misgivings exist.

The date on which misgivings about the characteristics of a construction product is determined is the date of its recording in an official note, i.e. in a protocol about the supervision of the construction product in whose characteristics misgivings exist, independently of the date of reception of a possible notification or some other way of obtaining information about that product. The person who is carrying out the supervision is obliged to record any misgivings about the characteristics of a construction product and reasons for those misgivings.

The person who carries out the control procedure must issue a written declaration concerning the facts essential for the application of paragraph 1 of this Article when answering to a request for the carrying out of the control procedure, without being explicitly asked to do so. This declaration shall not be separately investigated unless misgivings have been expressed.

Return of unincorporated construction product

Article 15

If during the supervision of a construction product it is established that the lack of conformity of the construction product is such that it endangers or could endanger the lives of people and/or the environment, it shall be ordered by decision to the authorised representative, importer or distributor of the construction product and to all potential contractors and investors to return the unincorporated construction product to the person who issued the declaration of conformity for that product.

Article 16

The person who issued the declaration of conformity for the construction product for which the return was ordered must take over that product without delay and must eliminate, if possible, its defects. The construction product for which the return was ordered can be placed on the market again, distributed, incorporated and returned to contractors and investors after its defects have been eliminated and after it has been proven in an appropriate way.

Article 17

If the elimination of defects of the construction product for which the return was ordered is not possible or the elimination would cause disproportionately high costs, whereas the product cannot be exported or placed on the market as a product that is not a construction product, the person who issued the declaration of conformity for the construction product must ensure that it is being managed as a waste and in accordance with the rules and regulations on waste management.

Article 18

The person who issued the declaration of conformity for the construction product for which the return was ordered, must inform, without delay and at the latest eight days from the date of take over of the construction product, the body that ordered the return of the construction product concerning the quantity taken over and the location and way of storing of the construction product.

The person referred to in paragraph 1 of this Article must inform the body that ordered the return of the construction product, at the latest six months after take over of the construction product, about placing the construction product back on the market, its distribution and return to contractors and investors, export, placing on the market as a product that is not a construction product, or about the location and person to whom the construction product was given over to be managed as a waste.

V CO-OPERATION WITH AND INFORMING OF BODIES THAT CARRY OUT THE SUPERVISION

Article 19

A decision that is issued pursuant to this Ordinance by an economic inspector, in addition to being delivered to the party involved, shall be sent to the Ministry.

A decision that is issued pursuant to this Ordinance by a construction inspector, in addition to being delivered to the party involved, shall be sent to the State Inspectorate.

A decision that is issued pursuant to this Ordinance during an administrative supervision, in addition to being delivered to the party involved, shall be sent to the State Inspectorate.

Article 20

Decisions referred to in Article 19 of this Ordinance shall also be delivered to corresponding bodies, organisations, institutions, agencies and other institutions for carrying out of procedures within their competence that are related to the carrying out of supervision of manufacturing, placing on the market, distribution and incorporation of construction products.

Article 21

Decisions issued on the prohibition of placing on the market, distribution and incorporation of a construction product by which the return of unincorporated construction product is ordered, must be brought without delay to the attention of the National Protection and Rescue Directorate by the body that brought that decision, so that the public may be informed and other measures undertaken within its competence.

Article 22

Information about construction products gathered during the supervision of construction products shall be exchanged, when necessary, through the Rapid Alert System for non-food consumer products (RAPEX), using the contact point located at the State Inspectorate.

VI FINAL PROVISION

Article 23

This Ordinance shall enter into force on the eighth day after the day of its publication in the Official Gazette, with the exception of Article 22 that shall enter into force on the day of the accession of the Republic of Croatia to the European Union.

Class: 360-01/08-04/7
Reg. No.: 531-01-266-08-01
Zagreb, 29 September 2008

The Minister
Marina Matulović Dropulić, m.p.