



Brussels, **XXX**
[...] (2024) **XXX** draft

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

of XXX

supplementing Regulation (EU) No 305/2011 of the European Parliament and of the Council by establishing threshold levels and classes of performance for permanent anchor devices and safety hooks

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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 harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC¹, acknowledges two main alternatives to determine threshold levels of performance in relation to the essential characteristics of construction products. According to Articles 3(3) and 60(a) of that Regulation, threshold levels can be set by delegated acts of the Commission, whereas its article 27(3) allows for the use of harmonised standards for this purpose, on the basis of a revised mandate. In accordance with Article 3(3), first subparagraph Regulation (EU) 305/2011, the Commission has first to determine those essential characteristics for which the manufacturer shall declare the performance of the product, as a pre-requisite for determining the threshold levels in relation to those essential characteristics.

As regards classes of performance, Regulation (EU) No 305/2011 also 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), classes of performance can be set by delegated acts of the European 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 European Commission and such classes established by the European standardisation bodies are thus to be acknowledged and respected quite in the same manner.

The pre-version of the European product standard EN 17235:2024 on permanent anchor devices and safety hooks has been prepared by the European Committee for Standardisation (CEN). Recently, the European Committee for Standardisation (CEN) submitted to the Commission information about this standard comprising threshold levels and classes of performance in relation to the essential characteristic mechanical resistance. According to this information, for safety reasons, more specifically to be used with personal fall protection systems to prevent persons from falling and arrest falls, and thus for serving better the needs of the market, the minimum level for the design values of actions related to this essential characteristic is required to be equal or greater than 9.0 kN when tested pursuant to the standard.

In addition, for safety hooks used for the attachment of mobile roof ladders or work platforms, the same essential characteristics require an additional testing consisting of a hook base test. The level for the measurement is required to be equal or less than 5 mm when tested pursuant to the standard.

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¹ OJ L 88, 4.4.2011, p. 5.

The same standard also defines classes of performance related to the essential characteristic mechanical resistance using as a reference the design values of actions. In particular, 4 classes are established for the dynamic test for values related to the number of persons using the safety device. Considering that some devices cannot fulfil all classes, there is a need to define the classes in a detailed manner for every type of device.

Since under the application of Regulation (EU) No 305/2011 the introduction of new threshold levels and classifications into harmonised standards by the European standardisation bodies themselves would require the issuing of new revised mandates, and considering the urgency to include the reference to this standard in the Official Journal of the European Union as soon as possible to increase the safety of this kind of devices, it has been considered more opportune to proceed with this Delegated Regulation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft Regulation was discussed in the meeting of the Advisory Group on Construction Products² (the AG) on 21 November 2023 and submitted for written consultation of the experts between 21 November 2023 and 21 December 2023, all Member States were presented an opportunity to nominate experts to participate. In addition to these experts, also other external stakeholders were consulted. The documents discussed in the AG and relevant to the written consultation were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts. The observations presented in these contexts were taken into account when preparing the final draft version of this act for the inter-service consultation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Pursuant to Articles 3(3) and 60(a) of Regulation (EU) No 305/2011, threshold levels of performance may be established in relation to the essential characteristics of construction products by delegated acts of the Commission, whereas its Article 27(3) allows for the use of harmonised standards for this purpose, on the basis of a revised mandate. In accordance with Article 3(3), first subparagraph of that Regulation, the Commission has first to determine those essential characteristics for which the manufacturer shall declare the performance of the product, as a pre-requisite for determining the threshold levels in relation to those essential characteristics.

According 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) thereof, this can be done by delegated acts of the Commission. In accordance with Article 27(2), first subparagraph of that Regulation, 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 in the same manner.

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² Code E01329 in the Register of Commission Expert Groups and other Similar Entities.

Since under the application of Regulation (EU) No 305/2011 the introduction of new threshold levels and classifications into harmonised standards by the European standardisation bodies themselves would require the issuing of new revised mandates, and considering the urgency to include the reference to this standard in the Official Journal of the European Union as soon as possible to increase the safety of this kind of devices, it has been considered more opportune to proceed with this Delegated Regulation. For these reasons, the draft Delegated Regulation should be adopted to establish new threshold level and classes of performance for product families mentioned above.

The draft Delegated Decision 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 threshold levels or 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 harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC³, and in particular Article 27(1) and (3) in conjunction with Article 60, points (a) and (f) thereof,

Whereas:

- (1) Harmonised standard EN 17235:2024 on permanent anchor devices and safety hooks contains threshold levels and classification systems for the performance of the products it covers, as regards the essential characteristic ‘mechanical resistance’.
- (2) It is appropriate to determine the essential characteristics ‘mechanical resistance – dynamic test’ and ‘mechanical resistance – breaking load test’ as those for which the manufacturer is obliged to declare the performance of anchor devices and safety hooks when they are placed on the market. The essential characteristic ‘mechanical resistance – hook base test’ should be added to the list of essential characteristics the manufacturer is required to declare for safety hooks.
- (3) In order to ensure a better technical applicability of the standard EN 17235:2024 to the products it covers, the standard should include thresholds for the levels of performance for the essential characteristics ‘mechanical resistance – dynamic test’ and ‘mechanical resistance – hook base test’.
- (4) For safety reasons, it is also necessary to define classes of performance for the essential characteristic ‘mechanical resistance – dynamic test’, so that detailed information on the device’s capacity to deal with different loads is provided in the declaration of performance.
- (5) Under Article 3(3) and Article 27(2), of Regulation (EU) No 305/2011, either the Commission or a European standardisation body, on the basis of a revised mandate issued by the Commission, may establish classes and threshold levels of performance in relation to essential characteristics of construction products. Given the need to establish classes and threshold levels of performance for permanent anchor devices and safety hooks as soon as possible, the Commission should establish those classes

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³ OJ L 88, 4.4.2011, p. 5, ELI: <http://data.europa.eu/eli/reg/2011/305/oj>.

and threshold levels of performance. Under Article 27(2), first subparagraph, of that Regulation, those classes of performance are to be used in harmonised standards,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation lays down rules for permanent anchor devices and safety hooks covered by European Product Standard EN 17235:2024. It establishes thresholds levels and classes of performance for those devices and hooks, as well as the essential characteristics of those products that the manufacturer is required to specify in the declaration of performance referred to in Article 4 of Regulation (EU) No 305/2011.

Article 2
Mandatory declaration of essential characteristics

1. The manufacturer shall declare in the declaration of performance, for permanent anchor devices and safety hooks, when such products are placed in the market, the following essential characteristics:
 - (a) mechanical resistance – dynamic test;
 - (b) mechanical resistance – breaking load.
2. Where a product includes a safety hook, the manufacturer of that product shall also declare in the declaration of performance, when it is placed on the market, the essential characteristic ‘mechanical resistance – hook base test’.

Article 3
Threshold values

3. For the essential characteristic referred to in Article 2(1), point (a), the level for the design values of actions shall be equal to, or greater than, 9.0 kN when tested according to EN 17235:2024, as specified in the Annex.
4. Where a product includes a safety hook, the level for the measurement for the essential characteristic ‘mechanical resistance – hook base test’ shall be equal to, or less than, 5 mm when tested according to EN 17235:2024, as specified in the Annex.

Article 4
Classes of performance

The classes of performance for permanent anchor devices and safety hooks, as regards the essential characteristic referred to in Article 2(1), point (a), are set out in the Annex.

Article 5
Entry into force

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.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

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