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STATUTORY INSTRUMENTS

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**2018 No. 673**

**ROAD TRAFFIC  
ENVIRONMENTAL PROTECTION**

**The Road Vehicles (Defeat Devices, Fuel Economy  
and Type-Approval) (Amendment) Regulations 2018**

*Made - - - - 4th June 2018*

*Laid before Parliament 8th June 2018*

*Coming into force in accordance with regulation 1*

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (“the 1972 Act”)(**1**).

The Secretary of State for Transport is a Minister designated (**2**) for the purposes of section 2(2) of that Act for the regulation of the type, description, construction or equipment of vehicles, and of components of vehicles, and in particular any vehicle type approval scheme and in relation to measures relating to the environment.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for references in these Regulations (and in consequential amendments made by these Regulations) to [Directive 2007/46/EC](#) of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles(**3**) and to Regulation (EU) No 167/2013 of the European Parliament and of the Council on the approval and market surveillance of agricultural and forestry vehicles(**4**) to be construed as references to versions of that Directive or that Regulation as they may be amended from time to time.

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(1) [1972 c.68](#). Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act [2008 \(c.7\)](#). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and [S.I. 2007/1388](#).

(2) See [S.I. 1972/1811](#) and [2008/301](#).

(3) OJ No. L263, 9.10.2007, p.1, as last amended by Commission Regulation (EU) 2017/2400 (OJ No. L 349, 29.12.2017, p.1).

(4) OJ No. L60, 2.3.2013, p.1.

## PART 1

### PRELIMINARY

#### Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Defeat Devices, Fuel Economy and Type-Approval) (Amendment) Regulations 2018 and come into force as follows—

- (a) regulation 4 apart from paragraph (b) and regulation 5 on 1st January 2019;
- (b) paragraph (b) of regulation 4 on 6th April 2020; and
- (c) the remaining regulations on 1st July 2018.

#### Interpretation

2. In these Regulations—

“the 2001 Regulations” means the Passenger Car (Fuel Consumption and CO<sub>2</sub> Emissions Information) Regulations 2001(5);

“the 2009 Regulations” means the Road Vehicles (Approval) Regulations 2009(6);

“the AFV Regulations” means the Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018(7);

“the Motorcycles Regulations” means the Motorcycles (Type-Approval) Regulations 2018(8);

“Regulation (EU) No. 2016/1628” means Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate emission limits and type-approval for internal, combustion engines for non-road mobile machinery(9).

#### Amendment of earlier regulations

- 3.—(1) The 2001 Regulations are amended as specified in Part 2 of these Regulations.
- (2) The 2009 Regulations are amended as specified in Parts 3 to 6 of these Regulations.
- (3) The Motorcycles Regulations are amended as specified in Part 7 of these Regulations.
- (4) The AFV Regulations are amended as specified in Part 8 of these Regulations.

## PART 2

### AMENDMENTS TO THE 2001 REGULATIONS

4. In regulation 3 (interpretation) of the 2001 Regulations—

- (a) in the definition of “official fuel consumption”, for “Regulation (EC) No. 715/2007 of the European Parliament and of the Council of 20th June 2007” substitute “[Commission Regulation \(EU\) No. 2017/1151](#)”(10); and

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(5) S.I. 2001/3523, as amended by S.I. 2004/1661, 2013/65 and 2018/235.

(6) S.I. 2009/717, as amended by S.I. 2011/1946, 2013/602 and 2018/235 and 236.

(7) S.I. 2018/236.

(8) S.I. 2018/235.

(9) OJ No. L252, 16.9.2016, p.53.

(10) OJ No. L175, 7.7.2017, p.1.

- (b) in the definition of “official specific emissions of CO<sub>2</sub>”, for “Regulation (EC) No. 715/2007 of the European Parliament and of the Council of 20th June 2007” substitute “Commission Regulation (EU) No. 2017/1151”.

5. In Schedule 2 (requirements for the fuel economy label) for Figure 1 substitute the following—

Environmental Information		
A guide on fuel economy and CO <sub>2</sub> emissions which contains data for all new passenger car models is available at any point of sale free of charge. In addition to the fuel efficiency of a car, driving behaviour as well as other non-technical factors play a role in determining a car’s fuel consumption and CO <sub>2</sub> emissions. CO <sub>2</sub> is the main greenhouse gas responsible for climate change.		
Make/Model:	Engine Capacity (c.c.)	
Fuel Type:	Transmission	
Fuel Consumption		
Drive Cycle	Litres/100km	Mpg
Low Medium High Extra High Combined		
<b>Carbon Dioxide emissions (g/km):</b>		

### PART 3

#### AMENDMENTS TO PART 1 OF THE 2009 REGULATIONS: PRELIMINARY

6. In regulation 3 (interpretation: general)—
- (a) in the definition “Framework Directive” for “as amended by Commission Directive 2010/19/EU” substitute “as it may be amended from time to time”; and
  - (b) in paragraph (b) of the definition of “regulatory act” for “the table in Part II” substitute “a table in Part I or Part II”.
7. In Schedule 2 (interpretation of requirements in regulatory Acts)—
- (a) in paragraph 1(a) for “1st September 2011” substitute “1st July 2018”; and
  - (b) omit paragraphs 4, 5 (including Table 2) and 6.

### PART 4

#### AMENDMENTS TO PART 4 OF THE 2009 REGULATIONS: NATIONAL SMALL SERIES TYPE APPROVAL AND INDIVIDUAL APPROVAL

- 8.—(1) Regulation 25 (grant of national small series type approval) is amended as follows.
- (2) After paragraph (2) insert—

“(2A) The approval authority may, when giving notice of its decision under paragraph (1) (c), notify the applicant manufacturer in writing that it has in making its decision waived the requirements of any of the following paragraphs of Annex II to the Framework Directive—

- (a) paragraph 1.1.1(c);
- (b) paragraph 2.1.1(h);
- (c) paragraph 3.1.1(d);
- (d) paragraph 4.1.1(e);
- (e) paragraph 5.1.1(f);
- (g) paragraph 6.1.1(f).”.

(3) In paragraph (12)—

(a) for the definition of “maximum permitted number”, substitute—

“maximum permitted number” means—

- (a) for any type of vehicle other than one specified in sub-paragraph (b), the number shown in column (2) of Table 1 in relation to the vehicle category to which that type belongs; and
- (b) for a type of vehicle specified in column (1) of Table 2 which exceeds 4 metres in height the number shown in column (2) of that Table 2 in relation to the vehicle category to which that type belongs;”;

(b) for the Table at the end, substitute the following Tables—

**“Table 1**

**Maximum permitted numbers**

<i>(1) Vehicle category</i>	<i>(2) Maximum permitted number</i>
M1	100
M2 or M3	250
N1	250
N2 or N3	250
O1 or O2	500
O3 or O4	250

**Table 2**

**Maximum permitted numbers**

<i>(1) Vehicle Category</i>	<i>(2) Maximum permitted number</i>
M2 or M3	1,000
N2 or N3	1,200
O3 or O4	2,000”.

9.—(1) In Schedule 4 (technical and administrative requirements for grant of national small series type approval), Section 1 of Part 2 (requirements for vehicles of category M1) is amended as follows.

(2) In item 2 of the table (emissions)—

(a) for the heading “**2. Emissions**”, substitute “**2. Light Duty Emissions**”;

(b) in the first column—

(i) in paragraph 3, for “Vehicles”, substitute “Complete or Completed vehicles”.

(ii) after paragraph 3 insert—

“4. Complete or Completed vehicles manufactured after 1st December 2018: the technical provisions of Annex XXI to Regulation (EU) No. 2017/1151 (WLTP)”;		
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(c) in the third column—

(i) in paragraph 5 for “The requirements”, substitute “In the case of a Completed vehicle, the requirements”;

(ii) in paragraph 6, at the end, insert “or aerodynamic performance”.

(3) In item 3 of the table (fuel tanks / rear protective devices), in the first column, at the end of paragraph 1 insert—

“Or The technical provisions of Regulation (EC) No. 79/2009 or UNECE Regulation 134 for hydrogen.”.		
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(4) Omit item 11 of the table (diesel smoke).

(5) In item 41 of the table (diesel emissions)—

(a) for the heading “**41. Diesel Emissions**”, substitute the heading “**41. Heavy Duty Emissions**”;

(b) in the first column, after paragraph 2, insert—

“3. Complete or Completed vehicles manufactured on or after 1st September 2018: Regulation (EC) No. 595/2009 Annex I limit values”;		
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(c) in the third column, in paragraph 3, for “For vehicles with a maximum mass equal to or exceeding 2500kg” substitute “In the case of Completed vehicles”.

(6) At the end of the table add the following item—

“ <b>69. Electrical Safety</b>		
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Vehicle: The technical provisions of UNECE Regulation 100.01”		
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**10.**—(1) In Schedule 4, Section 2 of Part 2 (wheelchairs) is amended as follows.

(2) In paragraph 4 (testing of restraint system anchorages), re-letter the sub-paragraphs (c) to (i) as sub-paragraphs (a) to (g) respectively.

(3) In paragraph 5 (forces applied to a wheelchair), re-letter the sub-paragraphs (j) and (k) as (a) and (b) respectively.

(4) In paragraph 7 (anchorage system performance), re-letter the sub-paragraphs (l) and (m) as (a) and (b) respectively.

**11.**—(1) In Schedule 4, Section 1 of Part 3 (requirements for vehicles of category N1) is amended as follows.

(2) In item 2 of the table (emissions)—

(a) for the heading “**2. Emissions**”, substitute the heading “**2. Light Duty Emissions**”;

(b) in the first column, at the end, add the following paragraph—

“4. Complete or Completed vehicles manufactured after 1st December 2019: the technical provisions of Annex XXI in Regulation EU No. 2017/1151 (WLTP).”;		
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(c) in the third column, in paragraph 4—

(i) for “special purpose vehicle”, substitute “completed vehicle”; and

(ii) at the end, add “or aerodynamic performance”.

(3) In the first column of item 3 of the table (fuel tanks / rear protective devices)—

(a) insert at the end of paragraph 2—

“Or The technical provisions of Regulation (EC) No. 79/2009 or UNECE Regulation 134 for hydrogen.”;		
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(b) renumber paragraph 4 as paragraph 3.

(4) Omit item 11 of the table (diesel smoke).

(5) In item 41 (diesel emissions)—

(a) for the heading “**41. Diesel Emissions**” substitute “**41. Heavy Duty Emissions**”; and

(b) in the first column, after paragraph 2, add the following paragraph—

“3. Complete or completed vehicles manufactured on or after 1st September 2018;		
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Regulation (EC) No. 595/2009 Annex I limit values.”.		
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(6) At the end of the table, add the following item—

<b>“69. Electrical Safety</b>		
Vehicle: The technical provisions of UNECE Regulation 100.01”.		

**12.**—(1) In Schedule 4, Part 4 (requirements for vehicles of categories M2, M3, N2, N3, and O) is amended as follows.

(2) In item 2 (emissions)—

(a) for the heading **“2. Emissions”** substitute **“2. Light Duty Emissions”**;

(b) in the first column—

(i) in paragraph 3, for “Vehicles” substitute “Complete or Completed vehicles”; and

(ii) after paragraph 3 insert—

“4. Complete or Completed vehicles manufactured after 1st March 2020: the technical provisions of Annex XXI in Regulation (EU) No. 2017/1151 (WLTP).”;		
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(c) in the third column—

(i) omit paragraph 2;

(ii) in paragraph 6, for “motor caravan, ambulance or hearse”, substitute “Completed vehicle”;

(iii) in paragraph 7, at the end, add “or aerodynamic performance”.

(3) In item 3 (fuel tanks / rear protective devices), at the end of paragraph 2, in the first column of the table, insert—

“Or  The technical provisions of EU Regulation No. 79/2009 or UNECE Regulation 134 for hydrogen.”.		
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(4) For item 8 (indirect vision), substitute—

<b>“8. Indirect Vision</b>		
Component:  Directive 2003/97/EC.		1. Does not apply to O category vehicles.
Vehicle:		

<p>1. The technical provisions of: <a href="#">Directive 2003/97/EC</a> Annex III.</p> <p>2. N2 and N3 vehicles manufactured after 1 April 2016: the technical provisions of paragraph 15 of UNECE Regulation 46.04.</p>		<p>2. Field of view requirements do not apply to optional mirrors.</p> <p>3. In the case of a Completed vehicle, the requirements according to the category of the base or incomplete vehicle based on maximum mass apply.</p> <p>4. In the case of an armoured vehicle, exemption from one or more of the provisions in column 1 is permitted where it can be demonstrated to the satisfaction of the approval authority that the special purpose of the vehicle makes it impossible to fully comply.</p> <p>5. The vehicle requirements in col. 1 paragraph 2 do not apply to vehicles where any part of the Class V mirror is less than 2.4m above the ground.</p> <p>6. The requirements in col 1 paragraph 2 do not apply to vehicles where the incomplete vehicle is of a type that is type approved to <a href="#">Directive 2003/97/EC</a>.”.</p>
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(5) Omit item 11 (diesel smoke).

(6) In item 41 (diesel emissions)—

(a) for the heading “**41. Diesel Emissions**” substitute “**41. Heavy Duty Emissions**”;

(b) in the first column, at the end insert—

<p>“3. Complete or Completed vehicles manufactured on or after 1st September 2018: Regulation <a href="#">(EC) No. 595/2009</a> Annex 1 limit values.”;</p>		
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(c) in the third column—

(i) omit paragraph 2; and

(ii) for paragraph 6, substitute—

		<p>“6. Does not apply to—</p>
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		<p>(a) mobile cranes which have an engine meeting the technical requirements of Regulation (EU) No. 2016/1628; or</p> <p>(b) vehicles designed to tow combinations exceeding 200 tonnes which have an engine meeting the technical requirements of Regulation (EU) No. 2016/1628.”.</p>
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(7) After item 57 (front underrun protection), insert the following items—

<b>“65. AEBS</b>		
<p>The technical provisions of Regulation (EU) No. 347/2012 or UNECE Regulation 131.</p>		<ol style="list-style-type: none"> <li>1. A Completed vehicle where the Complete or Incomplete vehicle it is based upon was manufactured before 1st September 2018.</li> <li>2. A Complete vehicle which was manufactured before 1st September 2018.</li> <li>3. A Completed vehicle where the Complete or Incomplete vehicle upon which it is based either has a gross weight of not more than 8 tonnes or has hydraulic brakes or is not equipped with pneumatic rear suspension; and was manufactured before 1st November 2020.</li> <li>4. A Complete vehicle which has a gross weight of not more than 8 tonnes or has hydraulic brakes or is not equipped with pneumatic rear suspension; and was manufactured before 1st November 2020.</li> <li>5. The vehicle classes listed in Article 1 of EU Regulation No. 347/2012.</li> </ol>

		<p>6. Completed vehicles based on a Complete or Incomplete vehicle of category N1 or M1.</p> <p>7. Vehicles built by a manufacturer which made fewer than 1,000 chassis and unitized bodies in the previous calendar year.</p>
<b>66. LDWS</b>		
The technical provisions of Regulation (EU) No. 351/2012 or UNECE Regulation 130.		<p>1. A Completed vehicle where the Complete or Incomplete vehicle it is based upon was manufactured before 1st September 2018.</p> <p>2. A Complete vehicle which was manufactured before 1st September 2018.</p> <p>3. The exemptions listed in Article 1 of EU Regulation No. 351/2012.</p> <p>4. Completed vehicles based on a Complete or Incomplete vehicle of category N1 or M1.</p> <p>5. Vehicles built by a manufacturer which made fewer than 1,000 chassis and unitized bodies in the previous calendar year.</p>
<b>69. Electrical Safety</b>		
Vehicle: The technical provisions of UNECE Regulation 100.01”.		

**13.**—(1) Schedule 5 (technical and administrative requirements for grant of individual approval) is amended as follows.

(2) In Part 1 (general provisions), in paragraph 7(2) for “does not exceed 300” substitute “does not exceed 500”.

(3) In Part 2 (requirements for Part 2 vehicles)—

- (a) in item 2 (emissions), for the heading “**2. Emissions**”, substitute “**2. Light Duty Emissions**”;
- (b) in the third column of item 2, in paragraph 9, insert at the beginning “In the case of a completed vehicle,”;
- (c) in item 3 (fuel tanks), in the first column, at the end of paragraph 3, insert—

“Or  The technical provisions of Regulation (EC) No. 79/2009 or UNECE Regulation 134 for hydrogen.”;		
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(d) in the first column of item 11 (diesel smoke), after paragraph 2 insert—

“3. If the vehicle has an effective date on or after 1st September 2018, when the engine is subject to the <b>free-acceleration</b> test, the <b>co-efficient of absorption</b> of the exhaust emissions from the engine immediately after leaving the exhaust must not exceed 0.7 per metres or the plate value (if any), whichever is lower.”;		
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(e) in the second column of item 11, at the end, insert—

	“ <b>“plate value”</b> means the <b>co-efficient of absorption</b> specified either on the vehicle’s plate provided under item 18 of this table, or on any other plate provided for this purpose.”;	
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(f) in item 41 (diesel smoke), for the heading “**41. Diesel Emissions**”, substitute the heading “**41. Heavy Duty Emissions**”;

(g) in the first column of item 41, at the end insert—

“5. Complete or completed vehicles manufactured on or after 1st September 2018: Regulation (EC) No. 595/2009 Annex I limit values”;		
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(h) after item 60 (frontal protection systems (“bull bars”)) (if fitted)), insert the following item—

<b>“69. Electrical Safety</b>		
Vehicle: The technical provisions of UNECE Regulation 100.01.		For a vehicle with batteries with maximum voltage 48V – only compliance with the essential technical requirements of UNECE Regulation 100.00 is required”.

- (4) In Part 3 (requirements for Part 3 vehicles) —
- (a) in item 2 (emissions), for the heading “**2. Emissions**” substitute the heading “**2. Light Duty Emissions**”;
  - (b) in column 1 of item 2, at the end, insert—

<p>“6. Complete or Completed vehicles manufactured after 1st December 2018 in the case of M1 vehicles and 1st December 2019 otherwise: the technical provisions of Annex XXI to Regulation (EU) No. 2017/1151.”;</p>		
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- (c) in column 3 of item 2, for paragraph 4, substitute—

		<p>“4. In the case of a Completed vehicle, the requirements according to the category and date of completion of the base or incomplete vehicle based on maximum mass may apply.”;</p>
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- (d) in column 3 of item 2, in paragraph 5, after “reference mass”, add “or aerodynamic performance”;
- (e) in item 41 (diesel emissions)—
  - (i) for the heading “**41. Diesel Emissions**”, substitute the heading “**41. Heavy Duty Emissions**”;
  - (ii) in the first column, at the end, add—

<p>“5. Complete or Completed vehicles manufactured on or after 1st September 2018: Regulation No. (EC) No. 595/2009 Annex I limit values.”;</p>		
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- (f) in column 3 of item 41, at the beginning of paragraph 2, insert “In the case of a completed vehicle”;
- (g) after item 54 (side impact), insert the additional item—

<p><b>“69. Electrical Safety.</b></p>		
<p>Vehicle: The technical provisions of UNECE Regulation 100.01”.</p>		

- (5) In Part 4 (requirements for other vehicles)—
- (a) in item 2 (emissions), for the heading “**2. Emissions**”, substitute the heading “**2. Light Duty Emissions**”;
  - (b) in item 2, for the entry in the first column, substitute—

<p>“1. Directive 70/220/EEC as amended by Directive 94/12/EC, Annex I, paragraph 5.</p> <p>2. Vehicles manufactured on or after 1st January 2001; Directive 70/220/EEC as amended by Directive 98/69/EC, Annex I.</p> <p>3. Vehicles manufactured on or after 1st January 2006; Directive 70/220/EEC as amended by Directive 98/69/EC Annex I, paragraph 5 (Row B limits).</p> <p>4. Vehicles manufactured on or after 1st September 2012: Regulation (EC) No. 715/2007, Annex I, Table 1.</p> <p>5. Vehicles manufactured on or after 1st September 2016: Regulation (EC) No. 715/2007, Annex I, Table 2.</p> <p>6. Vehicles manufactured on or after 1st March 2020: Regulation (EU) No. 2017/1151 (WLTP).”;</p>		
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(c) in item 2, in the third column—

(i) omit paragraph 2;

(ii) for paragraph 6, substitute—

		<p>“6. In the case of a completed vehicle, the requirements according to the category and date of completion of the base or incomplete vehicles based on maximum mass may apply.”;</p>
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(iii) in paragraph 7, after “reference weight”, insert “or aerodynamic performance”;

(d) in item 3 (fuel tanks / rear protective devices), at the end of paragraph 2, in column 1 insert—

<p>“The technical provisions of Regulation (EC) No. 79/2009 or UNECE Regulation 134 for hydrogen”;</p>		
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(e) in item 8 (indirect vision)—

(i) in the first column after “Vehicle” insert—

<p>“1. The technical provisions of Directive 2003/97/EC Annex III.  2. N2 and N3 vehicles manufactured after 1 April 2016: the technical provisions of paragraph 15 of UNECE Regulation 46.04.”;</p>		
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(ii) in the third column, in paragraph 3, for “motor caravan, ambulance or hearse”, substitute “Completed vehicle”; and

(iii) in the third column, after paragraph 4, insert—

		<p>“5. The vehicle requirements in col 1 paragraph 2 do not apply to vehicles where any part of the Class V mirror is below 2.4m above the ground.  6. The requirements in col 1 paragraph 2 do not apply to vehicles where the incomplete vehicle is of a type that is type approved to Directive 2003/97/EC.”;</p>
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(f) omit item 11 (diesel smoke);

(g) in item 41 (diesel emissions), for the heading “41. Diesel Emissions”, substitute the heading “41. Heavy Duty Emissions”;

(h) in item 41, in the first column, for paragraphs 1 and 2, substitute—

<p>“1. Directive 88/77/EEC as amended by Directive 91/542/EEC Row B limit values.  2. Vehicles manufactured on or after 1st October 2001: Directive 88/77/EEC as amended by Directive</p>		
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<p>1999/96/EC Row A limit values.</p> <p>3. Vehicles manufactured on or after 1st October 2006; Directive 88/77/EEC as amended by Directive 1999/96/EC Row B1 limit values.</p> <p>4. Vehicles manufactured on or after 1st October 2009: Directive 88/77/EEC as amended by Directive 1999/96 EC Row B2 limit values.</p> <p>5. Complete or completed vehicles manufactured on or after 1st September 2018: Regulation (EC) No. 595/2009 Annex I limit values.”;</p>		
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(i) in item 41, in the third column—

(i) in paragraph 5, for “a motor caravan, ambulance or hearse”, substitute “a completed vehicle”; and

(ii) for paragraph 6, substitute—

		<p>“6. In the case of —</p> <p>(a) mobile cranes which have an engine meeting the technical requirements of Regulation (EU) No. 2016/1628; or</p> <p>(b) vehicles designed to tow combinations exceeding 200 tonnes which have an engine meeting the technical requirements of Regulation (EU) No. 2016/1628,</p> <p>compliance with Regulation (EU) No. 2016/1628 can be accepted.”;</p>
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(j) after item 57 (front underrun protection), insert the following items—

<p><b>“65. AEBS</b></p>		
<p>The technical provisions of Regulation (EU) No. 347/2012 or UNECE Regulation 131.</p>		<p>1. A Completed vehicle where the Complete or Incomplete vehicle it is based upon was</p>

		<p>manufactured before 1st September 2018.</p> <p>2. A Complete vehicle which was manufactured before 1st September 2018.</p> <p>3. A Completed vehicle where the Complete or Incomplete vehicle upon which it is based has a gross weight of not more than 8 tonnes or has hydraulic brakes or is not equipped with pneumatic rear suspension; and was manufactured before 1st November 2020.</p> <p>4. A Complete vehicle which has a gross weight of not more than 8 tonnes or has hydraulic brakes or is not equipped with pneumatic rear suspension; and which was manufactured before 1st November 2020.</p> <p>5. The exemptions listed in Article 1 of Regulation EU No. 347/2012.</p> <p>6. Completed vehicles based on a Complete or Incomplete vehicle of category N1 or M1.</p> <p>7. Vehicles built by a manufacturer which made fewer than 1,000 chassis and unitized bodies in the previous calendar year.</p>
<p><b>66. LDWS</b></p>		
<p>The technical provisions of Regulation (EU) No. 351/2012 or UNECE Regulation 130.</p>		<p>1. A Completed vehicle where the Complete or Incomplete vehicle it is based upon was manufactured before 1st September 2018.</p> <p>2. A Complete vehicle which was manufactured before 1st September 2018.</p> <p>3. The exemptions listed in Article 1 of EU Regulation No. 351/2012.</p>



		4. Completed vehicles based on a Complete or Incomplete vehicle of category N1 or M1.  5. Vehicles built by a manufacturer which made fewer than 1,000 chassis and unitized bodies in the previous calendar year.
<b>69. Electrical Safety</b>		
Vehicle: The technical provisions of UNECE Regulation 100.01.”.		

## PART 5

### AMENDMENTS TO PART 5 OF THE 2009 REGULATIONS: VALIDITY OF APPROVALS AND END-OF SERIES VEHICLES

**14.**—(1) Regulation 31 (end-of series vehicles for EC type approval) is amended as follows.

(2) In paragraph (1)(a), for “has been granted by the approval authority”, substitute “has been granted for a vehicle pursuant to Article 9 of the Framework Directive”.

(3) In paragraph (7)—

(a) for the definition of “EC type approval” substitute—

““EC type approval” means a type approval granted for a vehicle pursuant to Article 9 of the Framework Directive;” and

(b) in the appropriate place in the alphabetical order, insert—

““EC type approval authority” means a competent authority appointed by a member state and notified to the Commission in accordance with article 43 of the Framework Directive.”.

**15.**—(1) Regulation 32 (end of series for national small series type approval) is amended as follows.

(2) In paragraph (5)(b)(i), for “EC”, substitute “national”.

## PART 6

### AMENDMENTS TO PART 6 OF THE 2009 REGULATIONS: MISCELLANEOUS

**16.** After regulation 33 (forgery, false statements, etc), insert—

#### “Defeat systems

**33A.**—(1) A person who is a manufacturer is guilty of an offence if a motor vehicle manufactured by that person—

(a) is placed on the market or registered in the United Kingdom; and

- (b) that motor vehicle is fitted with a defeat system which is not permitted.
- (2) A separate offence under paragraph (1) is committed in respect of each such motor vehicle placed on the market or registered.
- (3) A defeat system is not permitted unless—
- (a) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies, the fitting and operation of the defeat system is explained in the extended documentation package submitted by the manufacturer to the approval authority (as defined in Article 3(29) of the Framework Directive) when applying for emissions type approval for that vehicle; or
  - (b) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies—
    - (i) its use falls within one of the exceptions listed in Article 5(2)(a) to (c) of that Regulation; and
    - (ii) in respect of a motor vehicle submitted for emissions type approval after 16th May 2016, the fitting and operation of the defeat system is explained in the documentation package submitted by the manufacturer to the approval authority (as defined in Article 3(29) of the Framework Directive) when applying for emissions type approval for that vehicle.
- (4) Where, following examination of motor vehicles associated with a single EC vehicle type approval, the approval authority is satisfied that two or more of those motor vehicles—
- (a) are vehicles for which an EC certificate of conformity has been issued in respect of that approval; and
  - (b) are fitted with a defeat system which is not permitted,
- each motor vehicle associated with that single EC vehicle type approval is to be taken to be similarly fitted with a defeat system which is not permitted unless proved otherwise by the manufacturer.
- (5) In paragraph (4), a motor vehicle is associated with an EC vehicle type approval if an EC certificate of conformity relating to that type approval has been issued in respect of that vehicle.
- (6) Schedule 7 (penalties, enforcement and other matters) applies in relation to an offence under this regulation.
- (7) In this regulation—

“Commission Regulation (EC) No 692/2008” means Commission Regulation (EC) No 692/2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information<sup>(11)</sup>;

“Commission Regulation (EC) No 582/2011” means Commission Regulation (EC) No 582/2011 implementing and amending Regulation (EC) No 595/2009 of the European Parliament and of the Council with respect to emissions from heavy duty vehicles (Euro VI) and amending Annexes I and III to Directive 2007/46/EC of the European Parliament and of the Council<sup>(12)</sup>;

“Commission Regulation (EC) No 2017/1151” means Commission Regulation (EC) No 2017/1151 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to

(11) OJ No. L 199, 28.7.2008, p. 1.

(12) OJ No. L 167, 25.6.2011, p. 1.

emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information **(13)**;

“defeat system” means—

- (a) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies—
  - (i) where the engine system or engine family meets the conditions specified in Article 6(1a) of Commission Regulation (EC) No 582/2011, a “defeat strategy” as defined in paragraph 2 of UNECE Regulation No 49;
  - (ii) in all other cases, a “defeat strategy” as defined in Article 3(8) of Regulation (EC) 595/2009,

at the time of applying for emissions type approval for that vehicle;

- (b) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies—
  - (i) where, pursuant to Article 6(1) of Commission Regulation (EC) No 692/2008, the motor vehicle meets the requirements of Regulation (EC) 715/2007 by virtue of compliance with UNECE Regulation No 83, a “defeat device” as defined in paragraph 2 of that UNECE Regulation;
  - (ii) in all other cases, a “defeat device” as defined in Article 3(10) of Regulation (EC) 715/2007,

at the time of applying for emissions type approval for that vehicle;

“emissions type approval” means EC type approval in accordance with Regulation (EC) 715/2007 or Regulation (EC) 595/2009 (as appropriate) in respect of tailpipe emissions and evaporative emissions for a motor vehicle;

“extended documentation package” means—

- (a) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies, the extended documentation package mentioned in—
  - (i) Article 5(11) of Commission Regulation (EC) No 692/2008**(14)**; or
  - (ii) Article 5(11) of Commission Regulation (EC) No 2017/1151;
- (b) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies, the extended documentation package specified in Article 5(3) of, and Section 8 of Annex I to, Commission Regulation (EC) No 582/2011;

“placed on the market” means supplying or making available, whether in return for payment or free of charge, to a third party, and includes exposure for sale to a third party;

“registered” means registered pursuant to section 21 of the 1994 Act;

“Regulation (EC) 715/2007” means Regulation (EC) No 715/2007 of the European Parliament and of the Council on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information**(15)**;

“Regulation (EC) 595/2009” means Regulation (EC) No 595/2009 of the European Parliament and of the Council on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information**(16)**.

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**(13)** OJ No. L 175, 7.7.2017, p. 1.

**(14)** Paragraph 11 was inserted by Commission Regulation (EU) 2016/646 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ No. L 109, 26.4.2016, p. 1).

**(15)** OJ No. L 171, 29.6.2007, p. 1.

**(16)** OJ No. L 188, 18.7.2009, p. 1.

**Offences by bodies corporate and partnerships**

**33B.**—(1) If an offence under regulation 33A committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, an officer of the body corporate, or a person purporting to act as an officer of the body corporate, that officer or person (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and omissions of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

(3) If an offence under regulation 33A is—

(a) committed by a Scottish partnership; and

(b) proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner of the partnership,

the partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(4) In this regulation “officer” in relation to a body corporate means a director, secretary or other similar officer of the body corporate.”.

**17.**—(1) Regulation 38 (duplicate certificates) is amended as follows.

(2) In the heading, for “Duplicate certificates”, substitute “Replacement certificates”.

(3) In paragraphs (1) and (6), for “duplicate certificate”, substitute “replacement certificate”.

(4) In paragraphs (2) and (3), for “a duplicate”, substitute “a replacement certificate”.

(5) For paragraph (4), substitute—

“(4) A replacement certificate must be marked “Replacement”.”.

(6) In paragraph (5)—

(a) for “duplicate certificate”, substitute “a replacement certificate”; and

(b) for “the duplicate”, substitute “the replacement”.

**18.** After Schedule 6, insert—

“SCHEDULE 7

regulation 33A(6)

Penalties, enforcement and other matters

**PART 1****Interpretation of Schedule****Interpretation**

**1.** Except in relation to the expression “Officer of Revenue and Customs”, a reference in this Schedule to an officer is a reference to any person authorised by the approval authority to assist the authority in enforcing regulation 33A.

## PART 2

### Penalties

#### **Criminal penalties**

**2.—(1)** A person guilty of an offence under regulation 33A is punishable on summary conviction—

- (a) in England and Wales by a fine or (in the case of an individual) by imprisonment for a term not exceeding three months, or to both; or
  - (b) in Scotland or Northern Ireland by a fine not exceeding level 5 on the standard scale or (in the case of an individual) by imprisonment for a term not exceeding three months, or to both.
- (2) But an offence is not punishable under this paragraph if—
- (a) the approval authority has required a person to pay a penalty in respect of that offence under paragraph 3; and
  - (b) that penalty has been paid to the approval authority.

#### **Civil penalties**

**3.—(1)** The approval authority may require a person who is a manufacturer to pay a penalty if the approval authority is satisfied, on a balance of probabilities, that the person has committed the offence mentioned in regulation 33A(1).

- (2) But the approval authority may not require a person to pay a penalty if—
- (a) the person shows that there was a reasonable excuse for committing the offence; or
  - (b) criminal proceedings have been instituted against the person in respect of the same offence.
- (3) A penalty imposed under this paragraph may not exceed £50,000 per offence.
- (4) The penalty is payable to the approval authority on demand.

#### **Notification of penalty decision**

**4.—(1)** If the approval authority decides to require a person to pay a penalty under these Regulations, the approval authority must give the person a penalty notice.

- (2) A penalty notice must—
- (a) be in writing;
  - (b) state the approval authority's reasons for deciding to require the person to pay a penalty;
  - (c) state the amount of the penalty;
  - (d) specify the date on which it is given;
  - (e) specify the date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid;
  - (f) specify how a penalty must be paid;
  - (g) include an explanation of the steps that the person may take if the person objects to the penalty (including specifying the manner and form in which any notice of objection must be given to the approval authority); and
  - (h) include an explanation of the steps the approval authority may take to recover any unpaid penalty.

### **Objection to penalty decision**

5.—(1) The recipient of a penalty notice (the “recipient”) may object to the penalty notice by giving a notice of objection to the approval authority.

(2) A notice of objection must—

- (a) give the reasons for the objection;
- (b) be given to the approval authority in the manner and form specified in the penalty notice; and
- (c) be given before the end of the period of 28 days beginning with the date specified in the penalty notice as the date on which it is given.

(3) Where the approval authority receives a notice of objection, the approval authority must consider it and—

- (a) cancel the penalty;
- (b) reduce the penalty;
- (c) increase the penalty; or
- (d) determine not to alter the penalty.

(4) After reaching a decision as to how to proceed under sub-paragraph (3), the approval authority must notify the recipient of the decision in writing.

(5) A notification under sub-paragraph (4) must be given before the end of the period of 70 days beginning with the date specified in the penalty notice as the date on which it is given, or such longer period as the approval authority may agree with the recipient.

(6) A notification under sub-paragraph (4), other than one notifying the recipient that the approval authority has decided to cancel the penalty, must—

- (a) state the amount of the penalty following the approval authority’s consideration of the notice of objection;
- (b) state the approval authority’s reasons for the decision under sub-paragraph (3);
- (c) specify the date, at least 28 days after the date on which the notification is given, before which the penalty must be paid;
- (d) specify how the penalty must be paid;
- (e) include an explanation of the recipient’s rights of appeal; and
- (f) include an explanation of the steps the approval authority may take to recover any unpaid penalty.

(7) A notification under sub-paragraph (4) notifying the recipient that the enforcement authority has decided to cancel the penalty must state the enforcement authority’s reasons for the decision under sub-paragraph (3).

### **Civil penalties: appeals**

6.—(1) A person (the “appellant”) may appeal to the court against a decision to require the person to pay a penalty under these Regulations.

(2) An appeal may be brought only if the appellant has given a notice of objection and the approval authority has—

- (a) reduced the penalty under paragraph 5(3)(b);
- (b) increased the penalty under paragraph 5(3)(c); or
- (c) determined not to alter the penalty under paragraph 5(3)(d).

(3) An appeal must be brought within the period of 28 days beginning with the date on which the person is notified of the approval authority's decision on the notice of objection under paragraph 5(4).

(3) On appeal, the court may—

- (a) allow the appeal and cancel the penalty;
- (b) allow the appeal and reduce the penalty; or
- (c) dismiss the appeal.

(5) An appeal—

- (a) is to be a re-hearing of the approval authority's decision to impose a penalty; and
- (b) may be determined having regard to matters of which the approval authority was unaware.

(6) Sub-paragraph (5)(a) has effect despite any provision of rules of court.

(7) In this paragraph, a reference to “the court” is a reference—

- (a) in England and Wales, to the county court;
- (b) in Scotland, to the sheriff; and
- (c) in Northern Ireland, to a county court.

(8) But—

- (a) the county court in England and Wales, or a county court in Northern Ireland, may transfer proceedings under this regulation to the High Court; and
- (b) the sheriff may transfer proceedings under this regulation to the Court of Session.

## PART 3

### Enforcement and other matters

#### **Enforcement of penalty decision**

7.—(1) This paragraph applies where a sum is payable to the approval authority as a penalty under these Regulations.

(2) In England and Wales the penalty is recoverable as if it were payable under an order of the county court in England and Wales.

(3) In Scotland the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(4) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.

(5) Where action is taken under this paragraph for the recovery of a sum payable as a penalty under these Regulations, the penalty is—

- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc.)<sup>(17)</sup> as if it were a judgment entered in the county court;

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(17) 2003 c.39; section 98 has been amended by sections 48(1) and 106(2) of, and paragraph 55(1), (2), (3)(a) and (b) of Schedule 8 and paragraph 15 of Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) and section 17(5) of, and paragraph 40(a) and (c) of Part 2 of Schedule 9 to, the Crime and Courts Act 2013 (c.22). Further amendments made by the Tribunals, Courts and Enforcement Act 2007 have yet to be brought into force.

- (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments)<sup>(18)</sup> as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

#### **Obstruction of officers and false statements**

- 8.—(1) A person must not—
- (a) intentionally obstruct an officer when acting in pursuance of any provision of these Regulations;
  - (b) intentionally fail to comply with any requirement properly made by an officer under any provision of these Regulations; or
  - (c) without reasonable cause, fail to give an officer any other assistance or information which the officer may reasonably require of that person for the purposes of the exercise of the officer's functions under any provision of these Regulations.
- (2) A person must not, in giving any information which is required of that person by virtue of sub-paragraph (1)(c)—
- (a) make any statement which the person knows is false in a material particular; or
  - (b) recklessly make a statement which is false in a material particular.

#### **Powers of search, etc.**

- 9.—(1) Officers may exercise any of the powers set out in sub-paragraph (2) at all reasonable hours provided—
- (a) the officers identify themselves and produce authority in writing from the approval authority for the exercise by the officers of powers conferred on the authority by these Regulations; and
  - (b) state the purpose of the officers' actions and the grounds for undertaking them.
- (2) The powers referred to in sub-paragraph (1) are as follows—
- (a) an officer may for the purpose of ascertaining whether an offence under these Regulations has been committed—
    - (i) inspect any motor vehicle; and
    - (ii) enter any premises other than premises used wholly or mainly as a dwelling;
  - (b) if an officer has reasonable cause to suspect that an offence under these Regulations has been committed, the officer may, for the purpose of ascertaining whether it has been committed, require any person carrying on, or employed in connection with, a business to produce any records relating to the motor vehicle and the officer may take copies of those records or any part of them;
  - (c) if an officer has reasonable cause to suspect that an offence under these Regulations has been committed, the officer may seize and detain any motor vehicle for the purpose of ascertaining whether the offence has been committed;
  - (d) an officer may seize and detain any motor vehicle or records which the officer has reason to believe may be required as evidence in proceedings for an offence under these Regulations;
  - (e) an officer may, for the purpose of exercising the officer's powers of seizure under this sub-paragraph, but only if and to the extent that it is reasonably necessary in order to

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(18) S.I. 1981/226 (N.I. 6).



secure that the provisions of these Regulations are duly observed, require any person having authority to do so to open any container and, if that person does not comply with the requirement or if there is no person present having authority to open it, the officer may break open the container.

(3) For the purposes of sub-paragraph (2), the officer may require information stored electronically to be made available in printed form.

(4) An officer may, for the purpose of ascertaining whether an offence has been committed under these Regulations, make a purchase of a motor vehicle.

(5) If a justice is satisfied by any written information on oath—

(a) that there are reasonable grounds for believing either—

(i) that any motor vehicle or records, which an officer has power under this paragraph to inspect, copy, seize or require to be produced, is or are on any premises and that the inspection, copying, seizure or production of that item is likely to disclose evidence of the commission of an offence under these Regulations; or

(ii) that any offence under these Regulations has been, is being, or is about to be committed on any premises; and

(b) either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this sub-paragraph has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return,

the justice may by warrant under the justice's hand, which continues in force for a period of one month, authorise an officer to enter the premises, if need be by force.

(6) On entering any premises by authority of a warrant granted under sub-paragraph (5), an officer must, if the occupier is present, give to the occupier or, if the occupier is temporarily absent, leave in a prominent place on the premises, or an appropriate part of the premises, a notice in writing—

(a) summarising an officer's powers of seizure and detention of any motor vehicle or records under this paragraph;

(b) explaining that compensation may be payable for damage caused in entering premises and seizing and removing any motor vehicle or records and giving the address to which an application for compensation should be directed; and

(c) indicating at which office of the approval authority and within which hours a copy of these Regulations is available to be consulted.

(7) An officer, when entering any premises by virtue of this paragraph, may be accompanied by such persons and take such equipment as appear to the officer to be necessary.

(8) An officer, when leaving any premises which the officer entered by virtue of a warrant, must, if the premises are unoccupied or the occupier is temporarily absent, leave them in as secure a state as that in which they were found.

(9) When exercising any power of seizure and detention under this paragraph, an officer must, as soon as practicable, give to the person against whom the power has been exercised, a written notice stating—

(a) precisely what has been so seized and detained;

- (b) that an application for the release of a detained item may be made in accordance with paragraph 11 of this Schedule; and
- (c) the procedure for making such an application.

(10) A person who is not an officer of the approval authority must not purport to act as such under this paragraph.

(11) In sub-paragraph (5), the reference to “any written information on oath” is to be construed, in the application of this paragraph to—

- (a) Scotland, as a reference to any evidence on oath;
- (b) Northern Ireland, as a reference to any complaint on oath.

(12) In this paragraph, “justice” means—

- (a) in England and Wales, a justice of the peace;
- (b) in Scotland, a sheriff or summary sheriff; and
- (c) in Northern Ireland, a lay magistrate.

#### **Powers of customs officers to detain goods**

**10.**—(1) An Officer of Revenue and Customs may, for the purpose of facilitating the exercise by the approval authority, or duly authorised officer of the authority, of any powers conferred on the authority or officer by these Regulations seize any imported motor vehicle or any records, and detain them for not more than two working days.

(2) Anything seized and detained under this paragraph must be dealt with during the period of its detention in such manner as the Commissioners for Her Majesty’s Revenue and Customs may direct.

(3) An Officer of Revenue and Customs seizing any motor vehicle or records under this paragraph must inform the person from whom they are seized that such a motor vehicle or records have been seized.

(4) In sub-paragraph (1) the reference to two working days is a reference to a period of forty-eight hours calculated from the time when the goods in question are seized, but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(19)</sup> in the part of the United Kingdom where the goods are seized.

#### **Applications for the release of detained items**

**11.**—(1) Any person having an interest in any motor vehicle or records detained for the time being under paragraph 9 may apply for an order requiring any item so detained to be released to the applicant or another person.

(2) An application under this paragraph may be made—

- (a) to any magistrates’ court in which proceedings have been brought in England and Wales or Northern Ireland for an offence in respect of a contravention of any provision of these Regulations in connection with the detained item;
- (b) where no such proceedings have been so brought, by way of complaint to a magistrates’ court; or
- (c) in Scotland, by summary application to the sheriff.

(3) A magistrates’ court or the sheriff must not make an order under sub-paragraph (1) unless the court or sheriff is satisfied that—

<sup>(19)</sup> 1971 c.80.

- (a) proceedings have not been brought for an offence in respect of a contravention of any provision of these Regulations in connection with the detained item or, having been brought, have been concluded; and
  - (b) where no such proceedings have been brought, more than six months have elapsed since the seizure was carried out.
- (4) Any person aggrieved by an order made under this paragraph by a magistrates' court or sheriff, or by a decision of such a court or sheriff not to make such an order, may appeal against that order or decision—
- (a) in England and Wales, to the Crown Court;
  - (b) in Scotland, to the Sheriff Appeal Court as though it were an appeal under section 110(1) of the Courts Reform (Scotland) Act 2014<sup>(20)</sup>; or
  - (c) in Northern Ireland, to a county court.
- (5) In England and Wales or in Northern Ireland, an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980<sup>(21)</sup> or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(22)</sup> (statement of case)).

#### **Compensation for seizure and detention**

- 12.**—(1) Where an officer exercises any power under paragraph 9 to seize and detain any motor vehicle or records, the approval authority is liable to pay compensation to any person having an interest in the item seized and detained in respect of any loss or damage caused by the exercise of the power if—
- (a) there has been no contravention of any provision of these Regulations; and
  - (b) the exercise of the power is not attributable to any neglect or default by that person.
- (2) Any disputed question as to the right to, or the amount of, any compensation payable under this paragraph must be determined by arbitration—
- (a) in England and Wales or Northern Ireland, in accordance with the Arbitration Act 1996<sup>(23)</sup>; or
  - (b) in Scotland, in accordance with the Arbitration (Scotland) Act 2010<sup>(24)</sup>.

#### **Recovery of the expenses of enforcement**

- 13.**—(1) This paragraph applies where a court convicts a person of an offence in respect of a contravention of any provision of these Regulations in relation to any motor vehicle or records.
- (2) The court may (in addition to any other order it may make as to costs and expenses) order the person convicted to reimburse the approval authority for any expenditure which has been or may be incurred by that authority in connection with any seizure or detention by or on behalf of the authority of the motor vehicle or records.

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<sup>(20)</sup> 2014 asp 18.

<sup>(21)</sup> 1980 c.43.

<sup>(22)</sup> S.I. 1981/1675 (N.I. 26).

<sup>(23)</sup> 1996 c.23.

<sup>(24)</sup> 2010 asp 1.

### **Power of the Commissioners for Her Majesty's Revenue and Customs to disclose information**

14.—(1) If they think it appropriate to do so for the purpose of facilitating the exercise by any person to whom sub-paragraph (2) applies of any functions conferred on that person by any provisions of these Regulations, the Commissioners for Her Majesty's Revenue and Customs may authorise the disclosure to that person of any information obtained for the purposes of the exercise by the Commissioners of their functions in relation to imported goods.

(2) This sub-paragraph applies to the approval authority and to any officer authorised by the approval authority.

(3) A disclosure of information made to any person under sub-paragraph (1) must be made in such manner as may be directed by the Commissioners for Her Majesty's Revenue and Customs and may be made through such persons acting on behalf of that person as may be so directed.

(4) Information may be disclosed to a person under sub-paragraph (1) whether or not the disclosure of the information has been requested by or on behalf of that person.

### **Savings for certain privileges**

15. Nothing in these Regulations is to be taken as requiring any person—

- (a) to produce any records if that person would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, a claim of confidential communications, or as authorising any person to take possession of any records which are in the possession of a person who would be so entitled; or
- (b) to answer any question or give any information if to do so would incriminate that person or that person's spouse or civil partner.

### **Savings for civil rights**

16. A contract for the supply of a motor vehicle is not void or unenforceable by reason only of a contravention of any provision of these Regulations.”.

## **PART 7**

### **AMENDMENTS TO THE MOTORCYCLE REGULATIONS**

19. After regulation 14 (provision of technical information: loss or damage), insert—

#### **“Defeat devices**

14A.—(1) For the purposes of articles 19 and 76 of the Motorcycles Regulation, “use of a defeat device” is where a vehicle manufactured by a person—

- (a) is placed on the market or registered in the United Kingdom; and
- (b) that vehicle is fitted with a defeat device.

(2) A separate offence under article 19 of the Motorcycles Regulation is committed in respect of each such vehicle placed on the market or registered.

(3) Where, following examination of vehicles associated with a single vehicle type approval, the enforcement authority is satisfied that two or more of those vehicles—

- (a) are vehicles for which a certificate of conformity has been issued in respect of that approval; and

(b) are fitted with a defeat device,  
each vehicle associated with that single vehicle type approval is to be taken to be similarly fitted with a defeat device unless proved otherwise by the manufacturer.

(4) In paragraph (3), a vehicle is associated with a vehicle type approval if a certificate of conformity relating to that type approval has been issued in respect of that vehicle.

(5) In this regulation—

“placed on the market” means supplying or making available, whether in return for payment or free of charge, to a third party, and includes exposure for sale to a third party;

“registered” means registered pursuant to section 21 of the Vehicle Excise and Registration Act 1994<sup>(25)</sup>.”

**20.** In Schedule 1—

(a) in paragraph 3(1), for “six” (twice), substitute “three”;

(b) after paragraph 6(6), insert—

“(7) A notification under sub-paragraph (4) notifying the recipient that the enforcement authority has decided to cancel the penalty must state the enforcement authority’s reasons for the decision under sub-paragraph (3).”;

(c) in paragraph 7(3), for “7(2)”, substitute “6(4)”.

## PART 8

### AMENDMENTS TO THE AFV REGULATIONS

**21.** After regulation 14 (provision of technical information: loss or damage), insert—

#### “Defeat devices

**14A.**—(1) For the purposes of article 72 of the AFV Regulation, “use of a defeat device” is where a vehicle manufactured by a person—

(a) is placed on the market or registered in the United Kingdom; and

(b) that vehicle is fitted with a defeat device.

(2) A separate offence under article 19(3) of the AFV Regulation<sup>(26)</sup> is committed in respect of each such vehicle placed on the market or registered.

(3) Where, following examination of vehicles associated with a single vehicle type approval, the enforcement authority is satisfied that two or more of those vehicles—

(a) are vehicles for which a certificate of conformity has been issued in respect of that approval; and

(b) are fitted with a defeat device,

each vehicle associated with that single vehicle type approval is to be taken to be similarly fitted with a defeat device unless proved otherwise by the manufacturer.

(4) In paragraph (3), a vehicle is associated with a vehicle type approval if a certificate of conformity relating to that type approval has been issued in respect of that vehicle.

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<sup>(25)</sup> 1994 c. 22.

<sup>(26)</sup> Article 19(3) of the AFV Regulation requires compliance with the emissions provisions of Regulation (EU) 2016/1628, which in turn prohibits the use of defeat strategies and, by virtue of Commission Delegated Regulation (EU) 2017/654, misuse of an auxiliary emission control strategy.

## (5) In this regulation—

“auxiliary emission control strategy” has the meaning given in article 1(10) of Commission Delegated Regulation (EU) 2017/654;

“Commission Delegated Regulation (EU) 2017/654” means Commission Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery(27);

“defeat device” means—

(a) a defeat strategy as defined in article 3(63) of Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery(28); or

(b) an auxiliary emission control strategy which is prohibited under point 2.3.7 of Annex IV of Commission Delegated Regulation (EU) 2017/654;

“placed on the market” means supplying or making available, whether in return for payment or free of charge, to a third party, and includes exposure for sale to a third party;

“registered” means registered pursuant to section 21 of the Vehicle Excise and Registration Act 1994(29).”.

## 22. In Schedule 1—

(a) in paragraph 3(1), for “six” (twice), substitute “three”;

(b) after paragraph 6(6), insert—

“(7) A notification under sub-paragraph (4) notifying the recipient that the enforcement authority has decided to cancel the penalty must state the enforcement authority’s reasons for the decision under sub-paragraph (3).”;

(c) in paragraph 7(3), for “7(2)”, substitute “6(4)”.

## 23. In Schedule 2, after paragraph 1, insert—

**“Amendment of the Motor Fuel (Composition and Content) Regulations 1999**

**1A.** In regulation 5B(7)(c) of the Motor Fuel (Composition and Content) Regulations 1999(30), for “have the meanings given by Article 1 of Council Directive 2000/25/EC”, substitute “mean an agricultural or forestry vehicle (as appropriate) which is a tractor, within the meanings given by Articles 3 and 4 of Regulation (EU) No 167/2013 of the European Parliament and of the Council on the approval and market surveillance of agricultural and forestry vehicles(31), as it may be amended from time to time”.”.

(27) OJ No. L 102, 13.4.2017, p. 1.

(28) OJ No. L 252, 16.9.2016, p. 53.

(29) 1994 c. 22.

(30) S.I. 1999/3107, as amended by S.I. 2001/3896, 2003/3078, 2007/1608, 2010/3035, 2012/2567, 2013/2897, 2014/3076 and 2015/1630 and 1796. Regulation 5B was inserted by S.I. 2010/3035.

(31) OJ No. L60, 2.3.2013, p.1.

Signed by the authority of the Secretary of State

4th June 2018

*Jesse Norman*  
Parliamentary Under Secretary of State  
Department for Transport

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend both the Passenger Car (Fuel Consumption and CO<sub>2</sub> Emissions Information) Regulations 2001 (“the 2001 Regulations”) and the Road Vehicles (Approval) Regulations 2009 (“the 2009 Regulations”) in order to deal with amendments to the European Union legislation which they implement. They also amend the 2009 Regulations, the Motorcycles (Type-Approval) Regulations 2018 (“the Motorcycles Regulations”) and the Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018 (“the AFV Regulations”) to introduce offence provisions in relation to the use of defeat systems / devices to cheat emissions testing, together with minor technical amendments to the Motorcycles Regulations and AFV Regulations to correct minor defects in those instruments.

The amendments to the 2001 Regulations, which are dealt with in *Part 2* of these Regulations, reflect the change of the basis of the test to be used for measuring fuel economy from the New European Drive Cycle (NEDC) to the Worldwide Harmonised Light vehicle Test Procedure (WLTP) in accordance with [Commission Regulation \(EC\) No. 2017/1151](#) of 1st June 2017. This in turn requires changes to the published material concerning the vehicles produced by motor car manufacturers.

Accordingly, *regulation 4* of these Regulations amends the definitions of “official fuel consumption” and “official specific emissions of CO<sub>2</sub>” to refer to [Commission Regulation \(EC\) No. 2017/1151](#) and *regulation 5* substitutes the new format for the Fuel Economy Label prescribed by Schedule 1 to 2001 Regulations.

The amendments to the 2009 Regulations, which are set out in *Parts 3 to 6* of these Regulations, update the relevant principal Regulations to incorporate a number of developments in the EU legislation into the provisions concerning National Small Series and Individual Approval, in particular amendments to Regulations (EU) Nos. 715/2007 (light duty emissions), 595/2009 (heavy duty emissions), 661/2009 (general safety regulation) and 79/2009 (hydrogen safety) and their implementing acts, into the provisions concerning national small series type approval and individual approval.

*Part 3* amends *Part 1* of the 2009 Regulations (preliminary). In particular, *regulation 6* amends the definition of the Framework Directive ([Directive 2007/46/EC](#)) to cover both future amendments to it and additional amendments already made and *regulation 8* updates the list of EU instruments specified in Schedule 2 (interpretation of “regulatory acts”).

*Part 4* amends *Part 4* of 2009 Regulations (national small series type approval and individual approval). In particular:

*regulation 8* amends *regulation 25* (grant of national small series type approval) to permit the approval authority when making a decision over the grant of approval to waive specified requirements of the Framework Directive and to amend the maximum permitted number of vehicles that may be given small series approval in any year;

*regulations 9 to 12* amend Schedule 4 (technical and administrative requirements for grant of national small series approval), *regulations 9 and 10* amending sections 1 and 2 of *Part 2* (requirements for M1 category vehicles), *regulation 11* amending section 1 of *Part 3* (requirements for N1 category vehicles) and *regulation 12* amending *Part 4* (requirements for category M2, M3, N2, N3, and O vehicles); and

*regulation 13* amends Schedule 5 (technical and administrative requirements for the grant of individual vehicle approval).



The more significant changes introduced by these provisions concern the introduction of requirements for Euro VI vehicles (those tested to heavy duty rules) (regulations 9, 11, 12 and 13), a new (WLTP) test for measuring emissions from light duty vehicles (regulations 9, 11, 12 and 13), requirements for the compulsory fitting of advanced emergency braking and lane departure warning systems (regulations 12 and 13) and new requirements for mirrors (regulations 12 and 13).

In *Part 5*, *regulations 14 and 15* correct deficiencies in Part 5 (validity of approvals and end-of-series vehicles) of the 2009 Regulations. *Regulation 14* extends the application of regulation 31 of 2009 Regulations to enable the UK approval authority to issue end-of-series derogations covering sale in the UK of vehicles type approved by any EU approval authority, not just by the UK authority.

In *Part 6* (Miscellaneous), *regulation 16* inserts new regulations 33A and 33B into the 2009 Regulations to provide for an offence of placing on the market or registering a vehicle that is fitted with a defeat system. *Regulation 17* reclassifies “duplicate certificates” as “replacement certificates”. *Regulation 18* inserts a new schedule 7 into the 2009 Regulations to provide that the offence in the new regulation 33A is to be punishable by either criminal or civil penalties and to make provision for enforcement (including in connection with false statements and obstruction of officers, powers of search, detention of goods by customs officers and recovery of expenses of enforcement).

*Part 7* amends the Motorcycle Regulations. In particular, *regulation 19* inserts a new regulation 14A to support the existing prohibition on use of defeat devices found in Regulation (EU) No 168/2013 of the European Parliament and of the Council on the approval and market surveillance of two- or three-wheel vehicles and quadricycles. *Regulation 20* makes amendments to Schedule 1 of the Motorcycles Regulations to correct the maximum period of imprisonment for an offence under those Regulations, to provide for reasons to be given when an appeal against a penalty notice is successful, and to correct a cross-reference error.

*Part 8* amends the AFV Regulations in a similar manner to the amendments in Part 7. In particular, *regulation 21* inserts a new regulation 14A to support the existing prohibition on use of defeat devices found in Regulation (EU) No 167/2013 of the European Parliament and of the Council on the approval and market surveillance of agricultural and forestry vehicles. *Regulation 22* makes similar amendments to Schedule 1 of the AFV Regulations to those in regulation 20 which amend the Motorcycles Regulations. *Regulation 23* makes a further correcting amendment to Schedule 2 of the AFV Regulations to insert a provision making a consequential amendment to the Motor Fuel (Composition and Content) Regulations 1999.

The net costs imposed on business, the voluntary sector and the public sector by these Regulations have been assessed as being less than £5m in any year and therefore a full impact assessment has not been prepared, and a Review provision has not been included.

A draft of these Regulations was notified to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ No L 241, 17.9.2015, p.1), as notification number 2018/52/UK.