

2010 No. 181

ROAD TRAFFIC AND VEHICLES

**The Motor Vehicles (Construction and Use) (Amendment No. 2)
Regulations (Northern Ireland) 2010**

Made - - - - - *14th May 2010*

Coming into operation - *11th June 2010*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Articles 55(1), (2) and (6) and 110(2) of the Road Traffic (Northern Ireland) Order 1995(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment No. 2) Regulations (Northern Ireland) 2010 and shall come into operation on 11th June 2010.

(2) In these Regulations, “the principal Regulations” means the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(b).

Amendment to regulation 2 (interpretation)

2. In regulation 2 of the principal Regulations—

(a) after the definition of “the 1972 Act(c)” insert—

““the 1988 Act” means the Road Traffic Act 1988(d);”;

(b) after the definition of “the Type Approval Regulations” insert—

““the Vehicle Approval Regulations” means the Road Vehicles (Approval) Regulations 2009(e);”.

Amendment to regulation 38 (mirrors and other devices for indirect vision)

3. In regulation 38 of the principal Regulations(f) in paragraph (9) for “regulation 4(2)” substitute “regulation 3(2)”.

(a) S.I. 1995 No. 2994 (N.I. 18); see Article 2(2) for the definition of “the Department”
(b) S.R. 1999 No. 454; relevant amending regulations are S.R. 2001 No. 173, S.R. 2002 No. 375, S.R. 2004 No. 67, S.R. 2007 No. 15, S.R. 2007 No. 481 and S.R. 2009 No. 336
(c) 1972 c. 10 (N.I.)
(d) 1988 c. 52
(e) S.I. 2009/717
(f) Regulation 38 was amended by S.R. 2007 No. 15 regulation 3, S.R. 2007 No. 481 regulation 4 and S.R. 2009 No. 336 regulation 2

Insertion of regulation 74B (retrofitting and refilling of certain air conditioning systems)

4. After regulation 74A of the principal Regulations(a), insert—

“Retrofitting and refilling of certain air conditioning systems

74B.—(1) Subject to paragraphs (7), (8), (9) and (10) and Schedule 8, this regulation applies to vehicles set out in Article 2 of Directive 2006/40(b), regardless of their date of manufacture.

(2) Regulation 3(2) does not apply in relation to a vehicle to which this regulation applies.

(3) A vehicle type approved on or after 1st January 2011 may not be retrofitted with an air conditioning system designed to contain high-GWP fluorinated greenhouse gases.

(4) On or after 1st January 2017, a vehicle may not be retrofitted with an air conditioning system designed to contain high-GWP fluorinated greenhouse gases.

(5) A vehicle type approved on or after 1st January 2011 may not be fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases.

(6) On or after 1st January 2017, a vehicle may not be fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases.

(7) Paragraph (5) does not apply to a vehicle where—

- (a) it was type approved on or after 1st January 2011, and
- (b) on the date it was type approved, it was not prevented from being fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases by any pre-requisite for type approval imposed by—
 - (i) the 1981 Order(c) or any regulations made under it;
 - (ii) the 1988 Act or any regulations made under it; or
 - (iii) the Vehicle Approval Regulations.

(8) Paragraph (6) does not apply to a vehicle where—

- (a) it was registered on or after 1st January 2017, and
- (b) on the date it was registered, it was not prevented from being fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases by any pre-requisite for registration imposed by—
 - (i) the 1981 Order or any regulations made under it;
 - (ii) the 1988 Act or any regulations made under it; or
 - (iii) the Vehicle Approval Regulations.

(9) Paragraph (6) does not apply to a vehicle where—

- (a) it was used for the first time on a road in Northern Ireland on or after 1st January 2017 (this date not being determined, for the purposes of this sub-paragraph, in accordance with regulation 2(4)(a)), and
- (b) on the date it was first so used, it was not prevented from being fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases by any pre-requisite for use imposed by—

(a) Regulation 74A was inserted by S.R. 2002 No. 375, regulation 10

(b) Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles (OJ No. L161, 14.6.2006 p.12) and amending Council Directive 70/156/EEC (OJ No. L42, 23.02.1970, p.1 as last amended by OJ No. L161, 22.6.2007, p.60). “Community Directive” is defined by regulation 2(2) of, and Schedule 1 to, the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999.

(c) Articles 31A-31E, provisions dealing with type approval, were inserted in the 1981 Order by S.I. 1985 No. 755 (N.I. 6) Article 3 and amended by S.R. 1993 No. 246, S.I. 1995 No. 2994 (N.I. 18) Article 112(1) and Schedule 3, paragraph 5, S.I. 2003 No. 1099 regulation 4 and S.I. 2006 No. 1254 (N.I. 9) Article 63 (1) and Schedule 3, paragraph 14

- (i) the Road Traffic (Northern Ireland) Order 1995 or any regulations made under it, except for this regulation;
- (ii) the 1988 Act or any regulations made under it; or
- (iii) the Vehicle Approval Regulations.

(10) Paragraph (6) does not apply to a vehicle which before 1st January 2017 was fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases.

(11) For the purposes of this regulation, a vehicle was type approved if there has been issued in relation to it—

- (a) an EC type approval certificate under regulation 4(5) of the EC Whole Vehicle Type Approval Regulations;
- (b) an EC type approval certificate under a provision of the law of any EEA State which corresponds to regulation 4(5) of the EC Whole Vehicle Type Approval Regulations;
- (c) an EC type approval certificate under regulation 13(3) of the Vehicle Approval Regulations;
- (d) an EC type approval certificate under a provision of the law of any EEA State which corresponds to regulation 13(3) of the Vehicle Approval Regulations;
- (e) a type approval certificate under section 55 of the 1988 Act;
- (f) a Minister’s approval certificate under section 58(1) of the 1988 Act;
- (g) a certificate under section 58(4) of the 1988 Act by reason of the vehicle conforming with another vehicle in respect of which a Minister’s approval certificate was issued under section 58(1) of that Act;
- (h) a type approval certificate under Article 31A(2) of the 1981 Order;
- (i) a Department’s approval certificate under Article 31A(4) of the 1981 Order; or
- (j) a certificate under Article 31A(5) of the 1981 Order by reason of the vehicle conforming with another vehicle in respect of which a Department’s approval certificate was issued under Article 31A(4) of that Order.

(12) In this regulation—

“air conditioning system” means any system whose main purpose is to decrease the air temperature and humidity of the passenger compartment of a vehicle;

“high-GWP fluorinated greenhouse gases” means fluorinated greenhouse gases having a global warming potential higher than 150, “fluorinated greenhouse gases” has the same meaning as in Article 3(5) of Community Directive 2006/40, and “global warming potential” has the same meaning as in Article 3(8) (including the footnote) of Community Directive 2006/40, read in conjunction with the second sentence of Article 3(9) (including the footnote) of the same Directive;

“retrofitted” means fitted to a vehicle after it has been first used.”.

Amendment of Schedule 1

5. In Table 1 in Schedule 1 to the principal Regulations(a) after item 104 insert—

“105	2006/40	17.5.2006	L161, 14.6.2006, p12	Emissions from air conditioning systems in motor vehicles.
106	2007/46	5.9.2007	L263, 9.10.2007,p1	Framework Directive for the approval of motor vehicles and

(a) Table 1 in Schedule 1 was amended by S.R. 2004 No. 67 regulation 10, S.R. 2007 No. 15 regulation 4, S.R. 2007 No. 481 regulation 6 and S.R. 2009 No. 336 regulation 3

				their trailers, and of systems, components and separate technical units intended for such vehicles.”
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Amendment of Schedule 1A

6.—(1) Schedule 1A to the principal Regulations(a) is amended as follows:

(2) In paragraph 1(1) of Part 1, after the definition of “goods vehicle approval certificate” insert—

““individual approval certificate” means a certificate issued under regulation 27(10) of the Vehicle Approval Regulations;”.

(3) In Part II, after paragraph 9, insert—

“Modification to regulation 74B (retrofitting and refilling of certain air conditioning systems)

9A. Paragraphs (5) and (6) of regulation 74B shall not apply to a vehicle in relation to which a passenger vehicle approval certificate, a goods vehicle approval certificate or an individual approval certificate has been issued if it complies with the approval requirements for air conditioning systems designed to contain high-GWP fluorinated greenhouse gases.”.

Amendment of Schedule 8

7.—(1) Schedule 8 to the principal Regulations(b) is amended as follows.

(2) After paragraph 1(4A), insert—

“(4B) Paragraphs (5) and (6) of regulation 74B shall not apply to a type approval end of series vehicle, if it has been first used before 1st January 2018 and is lawfully equipped with an air conditioning system designed to contain high-GWP fluorinated greenhouse gases.”.

(3) In paragraph 2(2)—

- (a) after the words “regulation 74A” where they first appear, insert “or paragraph (5) or (6) of regulation 74B”;
- (b) after the words “in certain circumstances defer the date on which certain requirements relating to exhaust emissions,”, insert “air conditioning systems,”;
- (c) before the words “are the same as the type approval requirements”, insert “or, in relation to paragraph (5) or (6) of regulation 74B, 1st January 2017,”; and
- (d) at the end, insert “or, in relation to paragraph (5) or (6) of regulation 74B, immediately before 1st January 2017”.

(4) In paragraph 2(2A)—

- (a) after the words “regulation 74A,”, insert “or paragraph (5) or (6) of regulation 74B”; and
- (b) at the end, insert “, or Article 27 of Community Directive 2007/46”.

(5) After paragraph 2(2A), insert—

“(2B) For the purposes of paragraph 1, a vehicle is a type approval end of series vehicle in relation to—

- (a) an item numbered 2 or higher in the Table in regulation 67,
- (b) an item numbered 10 or higher (other than item 11) in Table II in regulation 74,

(a) Schedule 1A was inserted by S.R. 2001 No. 173 regulation 4 and Schedule and amended by S.R. 2002 No. 375 regulation 14

(b) Schedule 8 was amended by S.R. 2002 No. 375 regulation 15 and S.R. 2007 No. 481 regulation 7

(c) any provision of any Community Directive specified in item 1 or 2 in the Table in regulation 74A, or

(d) paragraph (5) or (6) of regulation 74B,

if a direction given under regulation 12 or 13 of the EC Whole Vehicle Type Approval Regulations or regulation 31 or 32 of the Vehicle Approval Regulations is in force in relation to the vehicle.”.

(6) In paragraph 7(2)(a), after the words “EC Whole Vehicle Type Approval Regulations”, insert “or the Vehicle Approval Regulations”.

Sealed with the Official Seal of the Department of the Environment on 14th May 2010.



Deirdre Kenny
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 (“the 1999 Regulations”) by inserting regulation 74B which restricts the retrofitting and refilling of air conditioning systems containing fluorinated greenhouse gases with a high global warming potential.

These Regulations implement Article 6(1) and (2) of Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 (OJ No. L161, 14.6.2006, p. 12) relating to emissions from air conditioning systems in motor vehicles and amending Council Directive 70/156/EEC (OJ No. L42, 23.02.1970, p.1 as last amended by OJ No. L161, 22.6.2007, p.60).

Regulation 2 amends regulation 2 of the 1999 Regulations by inserting defined terms for the Road Traffic Act 1988 and the Road Vehicles (Approval) Regulations 2009.

Regulation 3 rectifies a minor drafting error in S.R. 2009 No. 336.

Regulation 4 amends the 1999 Regulations by inserting Regulation 74B. Paragraph (1) sets out the vehicles to which regulation 74B applies and paragraph (2) exempts those vehicles from the requirements of regulation 3(2) of the 1999 Regulations. Paragraphs (3) and (4) prohibit the retrofitting of air conditioning systems designed to contain fluorinated greenhouse gases with a high global warming potential to vehicles type approved on or after 1st January 2011 and to all vehicles on or after 1st January 2017 respectively. Paragraphs (5) and (6) prohibit air conditioning systems fitted to vehicles type approved on or after 1st January 2011 and to all vehicles on or after 1st January 2017 respectively from containing fluorinated greenhouse gases with a high global warming potential. Paragraph (7) provides an exemption from the refilling provision in paragraph (5) for certain vehicles type approved on or after 1st January 2011. Paragraphs (8) and (9) contain exemptions for certain vehicles from complying with the provisions in paragraph (6). Paragraph (10) provides an exemption to the refilling provisions in paragraph (6) for vehicles which were fitted with an air conditioning system containing fluorinated greenhouse gases with a high global warming potential before 1st January 2017. Paragraph (11) sets out the circumstances in which a vehicle is considered type approved and paragraph (12) contains definitions.

Regulation 5 amends Table 1 in Schedule 1 in the 1999 Regulations by adding Directives 2006/40/EC and 2007/46/EC.

Regulation 6 amends Schedule 1A of the 1999 Regulations by inserting a definition of an individual approval certificate into paragraph 1(1), and inserting a new paragraph 9A exempting certain vehicles from complying with the refilling provisions in Regulation 74B.

Regulation 7 amends Schedule 8 of the 1999 Regulations to exempt end of series vehicles from compliance with the refilling provisions in Regulation 74B.

A transposition note setting out how these Regulations transpose the provisions of Directive 2006/40/EC is available from the Department of the Environment, Clarence Court, 10-18 Adelaide Street, Belfast, BT2 8GB and is annexed to the Explanatory Memorandum which is available alongside these Regulations on the OPSI website (www.opsi.gov.uk). An impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

A copy of Directive 2006/40/EC may be obtained from the Stationery Office (www.tso.co.uk) or the EUROPA website (<http://eur-lex.europa.eu/en/index.htm>).

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