

EXPLANATORY MEMORANDUM TO

The Motor Vehicles (Construction and use) (Amendment) Regulations (Northern Ireland) 2017

SR no. 140

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 55(1) and 110(2) of the Road Traffic (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Regulations update the reference in the Motor Vehicles (Construction and use) Regulations (Northern Ireland) 1999 (S.R. 1999 No.454) ("the Motor Vehicles (C&U) Regulations"), to the British Standard to which portable fire extinguishers fitted in minibuses must comply, i.e. BS EN 3-7:2004+A1:2007.
- 2.2. Accordingly, minibuses must be fitted with a portable fire extinguisher which complies with BS EN 3-7:2004+A1:2007 and which has a minimum test fire rating of 8A or 34B, contains water or foam and has a minimum capacity of two litres.

3. Background

- 3.1. There has been a mandatory requirement for over thirty years in Northern Ireland for public service vehicles (buses, coaches and taxis) and minibuses to be fitted with fire extinguishers. During periodic vehicle inspections, fire extinguishers are checked in these vehicles to ensure that they have the correct approval markings and comply with the specified British Standard or corresponding European Standard, now commonly known as the "EN3" standard. The BS EN3 Standard requires water-based, including foam, extinguishers with a fire test rating of 8A or 34B to have a minimum capacity of at least 2 litres.
- 3.2. The Motor Vehicles (C&U) Regulations currently reference British Standards for portable fire extinguishers that have been superseded by the BS EN 3-7:2004+A1:2007 Standard. This amendment is therefore necessary to ensure that those Regulations reflect the British Standard for fire extinguisher manufacture that is currently applicable. This will also support the enforcement by the Driver and Vehicle Agency (DVA) of those requirements.
- 3.3. Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer states that fire protection systems and fire extinguishers containing halons shall be decommissioned before 31 December 2003. Halons are currently referred to as acceptable content for a fire extinguisher in the Motor

Vehicles (C&U) Regulations and those references are therefore being removed.

4. Consultation

- 4.1. A consultation was carried out between 1st November 2011 and 7th February 2012. Five responses were received to the consultation. Two respondents were in favour of removing the mandatory requirement to fit fire extinguishers to taxis, minibuses and PSVs. However, responses from the Fire Industry Association and the NI Fire and Rescue Service indicated that in the interests of preserving life and property, there would be more risk in removing the mandatory requirement for fitment of fire extinguishers than in retaining it. They also stated that for health and safety reasons the fire extinguishing equipment should comply with the European “BS EN3” Standard.

5. Equality Impact

- 5.1. Consideration has been given to compliance with section 75 of the NI Act 1998. An Equality Screening Exercise has been completed and as no equality issues have been identified, a full Equality Impact Assessment was considered unnecessary.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment (RIA) has been completed. It considered amending the requirements for approval markings on fire extinguishers fitted to PSVs, taxis and minibuses to be the most beneficial option. The principal benefit in introducing these new requirements is from a health and safety perspective, i.e. to help address any health and safety concerns relating to driver and passenger safety when utilising these vehicles.
- 6.2. There are potential cost implications for minibus operators as they would be required to purchase an approved EN3 Standard extinguisher to replace any that are not up to that Standard, at a unit cost of around £25-30 (plus fitting costs). However these costs are not significant and are outweighed by the health and safety benefits.

7. Financial Implications

- 7.1. There will be no cost implications for the Department in relation to the implementation of this policy. DVA will check compliance with the new requirements for fire extinguishers during periodic roadworthiness tests. Other costs have already been detailed in the Regulatory Impact section above.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered the matter of Convention rights and Community law and is satisfied that there are no relevant concerns.

9. EU Implications

- 9.1. A draft of the Statutory Rule has been notified to the European Commission in accordance with Directive 2015/1535/EU of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations. This

means the Statutory Rule has undergone a three month standstill period in the EU before implementation.

- 9.2. Fire extinguishers which are of a corresponding Standard (providing equivalent levels of safety, suitability and fitness for purpose to the BS EN3 Standard) may also be fitted in minibuses where that corresponding standard is recognised by a European Economic Area (“EEA”) State or the Republic of Turkey.
- 9.3. The Department was notified on 25 January 2017 that the Commission are content with the Statutory Rule as drafted.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. Not applicable.