
STATUTORY INSTRUMENTS

2007 No. 3132

ROAD TRAFFIC

**The Road Vehicles (Construction and Use)
(Amendment) (No. 3) Regulations 2007**

Made - - - - 30th October 2007
Laid before Parliament 2nd November 2007
Coming into force - - 1st December 2007

The Secretary of State for Transport makes these Regulations in exercise of the powers conferred upon her by section 41(1), (2) and (5) of the Road Traffic Act 1988(1).

In accordance with section 195(2) of that Act, she has consulted representative organisations of those she considers likely to be affected by these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Vehicles (Construction and Use) (Amendment) (No. 3) Regulations 2007, and shall come into force on 1st December 2007.

(2) In these Regulations, “the 1986 Regulations” means the Road Vehicles (Construction and Use) Regulations 1986(2).

Amendment to Regulation 61 of the 1986 Regulations

2.—(1) Regulation 61 of the 1986 Regulations shall be amended as follows.

(2) Paragraph (4)(a) shall be replaced by the following—

“(a) if it is propelled by a compression ignition engine—

(i) in the case of an agricultural vehicle first used before 1st January 2001, with Community Directive 77/537, or

(ii) in the case of any other vehicle, either—

(1) 1988 c.52; section 41 was amended by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 50 and Schedule 8, and will also be amended from a date to be appointed by the Road Safety Act 2006, sections 18 and 56.
(2) S.I. 1986/1078; relevant amending instruments are S.I. 1988/1524, 1990/1131, 1991/1526, 1992/2137, 3285, 1993/2199, 1995/2210 and 2000/3197.

- (aa) Community Directive 72/306(3), as last amended by Community Directive 2005/21(4), or
(bb) ECE Regulation 24.01, 24.02 or 24.03;”
- (3) In paragraph (10BB)(e), after the numeral “V” there shall be added “, VI”.

Amendment to Schedule 2 to the 1986 Regulations

3. In columns 1, 2, and 3 of Table 1 in Schedule 2 to the 1986 Regulations, the following items shall be added—

- (a) after item 57B—

| | | | | | |
|------|--------|----------|---------------------------|----------------|---------|
| “57C | 89/491 | 17.07.89 | L238, 15.08.89 p.43 | Motor Vehicles | 72/306” |
|------|--------|----------|---------------------------|----------------|---------|

- (b) after item 75—

| | | | | | |
|------|-------|----------|----------------------------|---|-------------------------------|
| “75A | 97/20 | 18.04.97 | L125, 16.05.97, p.21 | The measures to be taken against the emission of pollutants from diesel engines for use in vehicles | 72/306, as amended by 89/491” |
|------|-------|----------|----------------------------|---|-------------------------------|

- (c) After item 88—

| | | | | | |
|------|---------|------------|-----------------------------|---|--------------------------------------|
| “88A | 2005/21 | 07.03.2005 | L61, 08.03.2005, p.25 | The measures to be taken against the emission of pollutants from diesel engines for use in vehicles | 72/306, as amended by 89/491, 97/20” |
|------|---------|------------|-----------------------------|---|--------------------------------------|

Amendment to Part II of Schedule 3B to the 1986 Regulations

4. For paragraph 6 of Schedule 3B to the 1986 Regulations there shall be substituted—

“6. An authorised sealer shall not—

- (a) seal a speed limiter fitted to a vehicle to which regulation 36A applies unless he is satisfied that the speed limiter fulfils the requirements of—
- (i) paragraph (5)(b);
 - (ii) paragraph (6), (7) or (7A); and
 - (iii) paragraph (8) or (9),
- of that regulation, or

(3) OJ No L190, 20.08.72, p.1. Directive 72/306/EEC was amended by Directive 89/491/EEC, OJ No. L238, 15.08.89 p.43, Directive 97/20/EC, OJ No. L125, 16.05.97, p.21, and Directive 2005/21/EC (see note (d) below).
(4) OJ No. L61, 08.03.2005, p.25.

- (b) seal a speed limiter fitted to a vehicle to which regulation 36B applies unless he is satisfied that the speed limiter fulfils the requirements of—
- (i) paragraph (7)(b);
 - (ii) paragraph (8) or (9); and
 - (iii) paragraph (10) or (11),
- of that regulation.”.

Signed by authority of the Secretary of State

30th October 2007

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Road Vehicles (Construction and Use) Regulations 1986 (“the 1986 Regulations”), to reflect the amendments made to Directive [72/306/EEC](#) by Directives [89/491/EEC](#), [97/20/EC](#) and [2005/21/EC](#). These Regulations also amend the 1986 Regulations to extend the category of vehicles that will be exempt from the requirement of having a metered smoke test, as permitted by Council Directive [96/96/EC](#) on roadworthiness tests for motor vehicles and their trailers (OJ No. L46, 17.2.97, p.1); and to insert, into the conditions that applied to authorised sealers, the extended categories of vehicles required to be fitted with a speed limiter, as a result of implementing Directive [2002/85/EC](#) of the European Parliament and of the Council on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ No. L57, 4.12.2002, p.327).

Paragraph (2) of regulation 61 of the 1986 Regulations requires a vehicle to be constructed and maintained so as not to emit any avoidable smoke or avoidable vapour. However, as an alternative to complying with this requirement, a vehicle may, by virtue of paragraph (3B), comply with a “relevant instrument”. This phrase is defined by paragraph (4). Relevant instruments include Directive [72/306/EEC](#), which prescribes limit values for the pollutants contained in the smoke emitted by vehicles, and tests to measure the quantities of pollutants emitted.

Since it was made, this Directive has been amended. Directive [89/491/EC](#) has adapted it to the use of unleaded petrol, while Directive [97/20/EC](#) has made some changes to the administrative provisions of the approval process under this Directive. The latest amendments were made by Directive [2005/21/EC](#). This Directive allows an alternative type of light source to be used when carrying out tests with an opacimeter. It also sets a new requirement on the protection of the light source against sooting.

By re-drafting paragraph (4) of regulation 61 of the 1986 Regulations, *regulation 2* of these Regulations ensures that, for the purposes of defining “relevant instrument”, Directive [72/306/EC](#) is read as amended.

Regulation 2 also amends paragraph (10BB)(e) of regulation 61 by extending the exemption from the requirements of paragraph (10BA) to class VI public service vehicles which were first used before 1st August 1979. This will mean that class VI vehicles falling within the scope of the extended exemption will no longer be required to have a metered smoke test carried out as part of the annual roadworthiness test for the vehicle. As with pre-August 1979 vehicles in other classes these older Class VI vehicles will still undergo a visual emissions check at the annual test.

Regulation 3 makes incidental amendments to Schedule 2 to the 1986 Regulations. Table 1 in this Schedule lists the Directives referred to in the 1986 Regulations in their full form, so that, by virtue of the definition “Community Directive” in the Table in regulation 3(2), the full titles of the Directives need not be spelt out fully every time they are mentioned. *Regulation 3* of these Regulations adds at the appropriate place in Table 1 in Schedule 2 the Directives which have amended Directive [72/306/EEC](#).

Regulation 4 substitutes a new paragraph 6 into Schedule 3B (the conditions which apply to authorised sealers). New paragraph 6 reflects the amendments made to regulations 36A and 36B of the 1986 Regulations when the categories of vehicles required to be fitted with a speed limiter were extended as a result of implementing Directive [2002/85/EC](#).

These Regulations were notified in draft to the European Commission in accordance with Directive [98/34/EC](#) (OJ No. L204, 21.7.1998, p. 37, last amended by Directive [2006/96/EC](#), OJ No. L363, 20.12.2006, p.81).

A regulatory impact assessment on the impact that these Regulations will have on the costs of businesses or the voluntary sector is available from Tony Baker at the Department for Transport (tel: 020 7944 2063 or e-mail: tonyt.baker@dft.gsi.gov.uk), and is annexed to the Explanatory Memorandum available alongside the instrument on the OPSI website (www.opsi.gov.uk).

No new Transposition Note has been prepared in consequence of the Regulations. An earlier Transposition Note in relation to Directive [2005/21/EC](#) has been updated, to reflect the fact that this instrument implements it so far as it ensures that vehicles subject to it and complying with it are not made subject to additional construction requirements. This instrument does the same in relation to Directives [89/491/EEC](#), [97/20/EC](#) and [2005/21/EC](#), and, with respect to this particular transposition, this Explanatory Note replaces the Transposition Note that would otherwise be required. The Transposition Note previously prepared for Directive [2002/85/EC](#) does not require amendment. The Transposition Notes for Directives [2002/85/EC](#) and [2005/21/EC](#) are available from the Department for Transport (from Gus Gander, tel 01179 524119, e-mail ggander@vca.gov.uk, or Rod Hagggar, tel 020 7944 2457, e-mail Rob.Hagggar@dft.gsi.gov.uk).