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## 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 (OJNo. 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](#).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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](mailto: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](http://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](mailto:ggander@vca.gov.uk), or Rod Haggar, tel 020 7944 2457, e-mail [Rob.Haggar@dft.gsi.gov.uk](mailto:Rob.Haggar@dft.gsi.gov.uk)).