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STATUTORY INSTRUMENTS

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**2009 No. 2196**

**ROAD TRAFFIC**

**The Road Vehicles (Construction and Use)  
(Amendment) (No. 3) Regulations 2009**

*Made* - - - - *9th August 2009*  
*Laid before Parliament* *14th August 2009*  
*Coming into force* - - *7th September 2009*

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 41(1), (2) and (5) of the Road Traffic Act 1988<sup>(1)</sup>.

Representative organisations have been consulted in accordance with section 195(2) of that Act.

**Citation and commencement**

1. These Regulations may be cited as the Road Vehicles (Construction and Use) (Amendment) (No.3) Regulations 2009 and come into force on 7th September 2009.

**Amendment of Regulations**

2. The Road Vehicles (Construction and Use) Regulations 1986<sup>(2)</sup> are amended as follows.

**Interpretation**

3.—(1) In regulation 3, the Table in paragraph (2) shall be amended as follows.

(2) After the expression “The 1984 Act” insert—

“The 1988 Act	The Road Traffic Act 1988”
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(3) After the expression “The Type Approval for Agricultural Vehicles Regulations” insert—

“The Vehicle Approval Regulations	The Road Vehicles (Approval) Regulations 2009 <sup>(3)</sup>
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(1) [1988 c.52](#); section 41 was amended by the Road Traffic Act [1991 \(c.40\)](#), sections 48 and 83, Schedule 4, paragraph 50 and Schedule 8.  
(2) [S.I. 1986/1078](#); relevant amending instruments are [1996/3017](#), [1996/2329](#), [2000/3197](#) and [2006/2565](#).  
(3) [S.I. 2009/717](#)  
(3) [S.I. 2009/717](#)

## Retrofitting and refilling of certain air conditioning systems

### 4. After regulation 61A, insert—

#### “Retrofitting and refilling of certain air conditioning systems

**61B.**—(1) Subject to paragraphs (7), (8), (9) and (10) and Schedule 7XA, this regulation applies to vehicles set out in Article 2 of Directive 2006/40(4), regardless of their date of manufacture.

(2) Regulation 4(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 1988 Act or any regulations made under it, except for this regulation;
  - (ii) the Road Traffic (Northern Ireland) Order 1981(5) 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 1988 Act or any regulations made under it, except for this regulation;
  - (ii) the Road Traffic (Northern Ireland) Order 1981(6) 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 Great Britain on or after 1st January 2017 (this date not being determined, for the purposes of this sub-paragraph, in accordance with regulation 3(3)), and

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(4) 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 3(2) of, and Schedule 2 to, the Road Vehicles (Construction and Use) Regulations 1986.

(5) S.I. 1981/154 (N.I.1).

(6) S.I. 1981/154 (N.I.1).

- (b) on the date it was first 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—
  - (i) the 1988 Act or any regulations made under it, except for this regulation;
  - (ii) the Road Traffic (Northern Ireland) Order 1981 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—
  - (a) there has been issued in relation to it—
    - (i) an EC type approval certificate under regulation 4(5) of the EC Whole Vehicle Type Approval Regulations;
    - (ii) 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;
    - (iii) an EC type approval certificate under regulation 13(3) of the Vehicle Approval Regulations;
    - (iv) 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;
    - (v) a type approval certificate under section 55 of the 1988 Act; or
    - (vi) a Minister's Approval certificate under section 58(1) of the 1988 Act; or
    - (vii) 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.
- (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 2**

- 5.—(1) Schedule 2 shall be amended as follows.
- (2) In Table 1—
  - (a) after item 91 insert—

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“91A.	2006/40	17.5.2006	L161, 14.6.2006, p.12	Emissions from	”
				air conditioning	

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systems in  
motor vehicles.

(b) after item 93 add—

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“94.	2007/46	5.9.2007	L263, 9.10.2007, p1	<i>Framework Directive for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.</i>	”
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#### Amendment of Schedule 2A

6.—(1) Schedule 2A is amended as follows.

- (2) In paragraph 1(1) of Part I, 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 9B, insert—

**“Modification to regulation 61B (retrofitting and refilling of certain air conditioning systems)**

9C. Paragraphs (5) and (6) of regulation 61B 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 7XA

7.—(1) Schedule 7XA is amended as follows.

- (2) After paragraph 1(4A), insert—  
“(4B) Paragraphs (5) and (6) of regulation 61B 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 61A” where they first appear, insert “or paragraph (5) or (6) of regulation 61B”,
  - (b) after paragraph (a), insert “or”,
  - (c) after paragraph (b), omit paragraph (c) and the word “or” before it,
  - (d) after the words “in certain circumstances defer the date on which certain requirements relating to exhaust emissions,”, insert “air conditioning systems,”,
  - (e) before the words “are the same as the type approval requirements”, insert “or, in relation to paragraph (5) or (6) of regulation 61B, 1st January 2017,”, and

- (f) at the end, insert “or, in relation to paragraph (5) or (6) of regulation 61B, immediately before 1st January 2017”.
- (4) In paragraph 2(2A)—
  - (a) after the words “regulation 61A,”, insert “or paragraph (5) or (6) of regulation 61B”; 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 55A,
    - (b) an item numbered 10 or higher (other than item 11) in Table II in regulation 61,
    - (c) any provision of any Community Directive specified in item 1 or 2 in the Table in regulation 61A, or
    - (d) paragraph (5) or (6) of regulation 61B,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”, insert “nor the Vehicle Approval Regulations”.

Signed by authority of the Secretary of State

9th August 2009

*C D Mole*  
Parliamentary Under Secretary of State  
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”) by inserting regulation 61B 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 3* amends the Table in regulation 3(2) of the 1986 Regulations by inserting defined terms for the Road Traffic Act 1988 and the Road Vehicles (Approval) Regulations 2009.

*Regulation 4* amends the 1986 Regulations by inserting regulation 61B. Paragraph (1) sets out the vehicles to which regulation 61B applies and paragraph (2) exempts those vehicles from the requirements of regulation 4(2) of the 1986 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 exception 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 the definitions.

*Regulation 5* amends Table 1 in Schedule 2 of the 1986 Regulations by adding Directives [2006/40/EC](#) and [2007/46/EC](#).

*Regulation 6* amends Schedule 2A of the 1986 Regulations by inserting a definition of an individual approval certificate into paragraph 1(1), and inserting a new paragraph 9C exempting certain vehicles from complying with the refilling provisions in regulation 61B.

*Regulation 7* amends Schedule 7XA of the 1986 Regulations to exempt end of series vehicles from compliance with the refilling provisions in regulation 61B.

A transposition note setting out how these Regulations transpose the provisions of Directive [2006/40/EC](#) is available from the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 4DR and is annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)). An impact assessment has not been produced for this instrument 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](http://www.tso.co.uk)) or the EUROPA website (<http://eur-lex.europa.eu/en/index.htm>).