
STATUTORY INSTRUMENTS

2009 No. 717

The Road Vehicles (Approval) Regulations 2009

PART 6

MISCELLANEOUS

Enforcement

Forgery, false statements, etc

- 33.**—(1) A person commits an offence if, with intent to deceive, that person—
- (a) forges, alters or uses a document to which paragraph (2) applies, or
 - (b) lends to, or allows to be used by, any other person a document to which paragraph (2) applies, or
 - (c) makes, or has possession of, any document so closely resembling a document to which paragraph (2) applies as to be calculated to deceive.
- (2) This paragraph applies to—
- (a) an EC type approval certificate,
 - (b) an EC certificate of conformity,
 - (c) a national small series type approval,
 - (d) a national small series certificate of conformity, or
 - (e) an individual approval certificate.
- (3) A person guilty of an offence under paragraph (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both.
- (4) A person commits an offence if, in supplying information or producing a document for the purpose of these Regulations, that person—
- (a) makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
 - (b) produces, provides, sends or otherwise makes use of a document which that person knows to be false in a material particular or recklessly produces, provides or sends or otherwise makes use of a document which is false in a material particular.
- (5) A person who contravenes regulation 16, 22(1) or 23(1) commits an offence.
- (6) A person guilty of an offence under paragraph (4) or (5) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Powers of entry

34.—(1) A person authorised by the approval authority (an “authorised person”) may, on production of a document showing that person has authority to do so, enter at all reasonable hours on any land or premises (including production facilities and domestic premises) which are being used for any purpose connected with these Regulations for the purpose of ensuring that these Regulations are being complied with.

(2) Without prejudice to the generality of paragraph (1), an authorised person may—

- (a) inspect any production facility, vehicle, system, component or separate technical unit found on the land or premises,
- (b) carry out on the land or premises any check or test prescribed in a regulatory act,
- (c) remove from the land or premises any vehicle, system, component or separate technical unit which the authorised person may reasonably require in order to carry out such a check or test,
- (d) have access to, inspect, remove, retain and copy any record or other document (in whatever form it is held) which is required to be kept under these Regulations or which the authorised person may reasonably require to inspect or copy,
- (e) have access to, inspect and check the operation of any computer and associated apparatus or material which is or has been used in connection with the keeping of records or the exercise of any other function connected with these Regulations (and for that purpose may require any person having charge of or concerned with the operation of that apparatus to assist with the inspection in any way the authorised person may reasonably request);
- (f) make a copy of any data stored on a computer and retain and remove that copy data.

(3) An authorised person must, so far as it is reasonably practicable to do so, return any vehicle, document or other thing removed from the land or premises to the person from whose possession it was taken.

*Reviews and appeals***Duty to give reasons etc**

35.—(1) A relevant notice must be in writing and specify the reasons for the decision to which it relates, the right to request a review under these Regulations and the time limit for making such a request.

(2) In this regulation and regulations 36 and 37, a “relevant notice” means a notice given under any of the following provisions—

- (a) regulation 13(7),
- (b) regulation 14(2);
- (c) regulation 19(2), (3), (4), (5) or (10),
- (d) regulation 21(3) or (4),
- (e) regulation 25(1)(c),
- (f) regulation 27(7),
- (g) regulation 31(4)(b), or
- (h) regulation 32(4)(b).

Review of decisions on type approval applications

- 36.**—(1) This regulation applies to all relevant notices except those given under regulation 27(7).
- (2) Where the approval authority has given a person a relevant notice to which this regulation applies, that person may apply to the approval authority for a reconsideration of the decision to give that notice.
- (3) An application under paragraph (1) must—
- (a) be made within a period of 28 days beginning on the date when the relevant notice is received, and
 - (b) be in writing stating the reasons for making it and accompanied by such further evidence as may be reasonably necessary to support those reasons.
- (4) The approval authority may—
- (a) request further evidence in support of the application;
 - (b) after giving reasonable notice to the applicant, carry out a re-examination of one or more vehicles for the purpose of determining the issues raised by the application.
- (5) The approval authority must as soon as reasonably practicable—
- (a) give written notification to the applicant stating whether the original decision is confirmed, amended or reversed, and
 - (b) if the decision is reversed or amended, take the appropriate action in respect of the revised decision.
- (6) An applicant aggrieved by the approval authority's notification under paragraph (5) may by notice in writing request the approval authority to appoint an independent assessor or assessment panel to review the decision to which the relevant notice relates.
- (7) A request under paragraph (6) must be—
- (a) made not later than 28 days after receipt of the approval authority's notification under paragraph (4),
 - (b) in writing stating the reasons for the request, and
 - (c) accompanied by the prescribed fee (if any).
- (8) As soon as reasonably practicable after the date of receipt of the request under paragraph (6) for an independent review the approval authority must—
- (a) appoint a person to act as assessor or , at the authority's discretion, not more than three persons to act as an assessment panel, and
 - (b) notify the applicant of the appointment.
- (9) The independent assessor or assessment panel may—
- (a) request further evidence in support of the request for review;
 - (b) after giving reasonable notice to the applicant, carry out a re-examination of one or more vehicles for the purpose of determining the issues raised by the request for review.

Applications for individual approvals: appeals

- 37.**—(1) This regulation applies where a relevant notice has been given to an applicant under regulation 27(7).
- (2) A person aggrieved by a decision made pursuant to an application under regulation 27 may appeal to the Secretary of State not later than 14 days after the date of the relevant notice.
- (3) An appeal under this regulation must—

- (a) be made by notice in writing in a form approved by the approval authority,
 - (b) state the grounds on which it is made,
 - (c) be accompanied by such documents and further evidence as may be specified in the form and reasonably necessary to support the grounds of appeal, and
 - (d) be accompanied by the prescribed fee (if any).
- (4) As soon as reasonably practicable after receiving the notice of appeal the Secretary of State must—
- (a) send a notice to the appellant stating the time and place where a re-examination of the vehicle is to be carried out for the purpose of determining the issues raised by the appeal, and
 - (b) appoint a person (“the examiner”) to re-examine the vehicle.
- (5) The appellant must attend with the vehicle, or arrange for the vehicle to be produced, at the time and place specified in the notice under paragraph (4) unless otherwise agreed with the Secretary of State.
- (6) The examiner must determine whether or not the decision made under regulation 27(7) was a correct decision and the provisions of regulation 27(7) to (9) apply for the purposes of that determination as they applied for the purposes of the original decision.
- (7) The examiner may—
- (a) confirm the original decision, or
 - (b) make such other decision as the examiner thinks fit (including the reimbursement of any fee paid by the appellant),

and if it is decided that an individual approval should be granted the examiner must notify the approval authority accordingly.

Other miscellaneous provisions

Duplicate certificates

- 38.**—(1) If an EC certificate of conformity, a national small series certificate of conformity or an individual approval certificate is lost or defaced, the owner or keeper of the vehicle to which the certificate relates may apply for a duplicate certificate—
- (a) in the case of an EC or national small series certificate of conformity, to the manufacturer by whom the original was issued, and
 - (b) in the case of an individual approval certificate, to the approval authority.
- (2) Where a certificate has been lost, the application for a duplicate must include—
- (a) particulars of the vehicle or vehicle part to which the certificate related, and
 - (b) either the serial number of the original certificate or such other information concerning the original certificate as is available and is reasonably required for enabling the records relating to the original certificate to be searched and the particulars of the original traced.
- (3) Where a certificate has been defaced, the application for a duplicate must be accompanied by—
- (a) the defaced certificate, and
 - (b) (if the serial number of that certificate is no longer legible) by such other information concerning the original certificate as is available and is reasonably required for enabling the records relating to the original certificate to be searched and the particulars of the original traced.

- (4) A duplicate certificate must be marked “Duplicate”.
- (5) A manufacturer to whom an application for a duplicate certificate is made under paragraph (1) (a) may not unreasonably refuse to issue the duplicate but may charge a reasonable fee for so doing.
- (6) Every application under paragraph (1)(b) for a duplicate certificate must be accompanied by the prescribed fee (if any).
- (7) In this regulation, “EC certificate of conformity” includes, as well as any certificate of conformity within the meaning of Article 3(36) of the Framework Directive—
 - (a) a certificate of conformity issued in accordance with regulation 5 of the 1998 Regulations, and
 - (b) a certificate of conformity issued under the law of a member State other than the United Kingdom in accordance with Council Directive [70/156/EEC](#) of 6th February 1970 on the approximation of the laws of the member States relating to the type approval of motor vehicles and their trailers (as amended).

Service of notices

39.—(1) Any document required or authorised by virtue of these Regulations to be given to any person by the approval authority may be given—

- (a) by delivering it to that person or by leaving it at that person’s proper address,
- (b) by sending it by registered or recorded delivery post to that person at that address, or
- (c) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) or (b) on the secretary, clerk or principal officer of that body,
- (d) if the person is a partnership, by serving it in accordance with sub-paragraph (a) or (b) on a partner or a person having the control or management of the partnership business, or
- (e) by means of any form of electronic communication agreed with the person to whom it is to be sent.

(2) For the purposes of paragraph (1), and of section 7 of the Interpretation Act 1978(1) (service of documents by post) in its application to this regulation, the proper address of a person is—

- (a) in the case of an individual, that person’s last known address,
- (b) in the case of the secretary, clerk or principal officer of a body corporate, the address of the registered office of the body or its principal office in the United Kingdom,
- (c) in the case of a partner in, or a person having the control or management of, a partnership, it is the address of the principal office of the partnership in the United Kingdom,

but subject to paragraph (3).

(3) If a person to be served by virtue of these Regulations with any document by the approval authority has notified the approval authority of an address within the United Kingdom other than that person’s proper address at which that person, or another acting on that person’s behalf, will accept service of any document of that description, that address is the person’s proper address.

Provision of testing stations

40. The approval authority may provide and maintain stations where examinations of vehicles and of components of such vehicles to which these Regulations apply may be carried out for the purposes of these Regulations and may provide and maintain apparatus for carrying out such examinations.

Designation of technical services

41. Where the approval authority designates a technical service the authority must comply with the requirements of Articles 41 to 43 of the Framework Directive.

Saving for applications made under the 1998 Regulations

42. An application for an EC type approval made under the 1998 Regulations before the coming into force of these Regulations has effect as if it had been made under these Regulations.