
STATUTORY INSTRUMENTS

2018 No. 236

**The Agricultural and Forestry Vehicles
(Type-Approval) Regulations 2018**

Citation, commencement and effect

1. These Regulations—
 - (a) may be cited as the Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018;
 - (b) come into force on 20th May 2018; and
 - (c) are of no effect in relation to any matter to which paragraph 2 or 3 of article 73 of the AFV Regulation applies.

Interpretation

- 2.—(1) In these Regulations—

“the AFV Regulation” means Regulation (EU) No 167/2013 of the European Parliament and of the Council on the approval and market surveillance of agricultural and forestry vehicles as it may be amended from time to time;

“enforcement authority” means the Secretary of State;

“relevant products” means—

 - (a) vehicles;
 - (b) systems;
 - (c) components;
 - (d) separate technical units;
 - (e) parts; or
 - (f) equipment.

(2) Unless otherwise provided, any word or expression used in these Regulations which is defined in article 3 of the AFV Regulation has the meaning given in that article.

Appointment of approval authority

3. The Secretary of State is the approval authority for the purposes of these Regulations and the AFV Regulation.

Market surveillance authority

4. The Secretary of State is the market surveillance authority for the purposes of—
 - (a) these Regulations and the AFV Regulation; and
 - (b) where applied by the AFV Regulation or otherwise applicable to relevant products, Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July

2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93^{M1}.

Marginal Citations

M1 OJ No L 218, 13.8.2008, p.30.

Requests for information: failure to comply

5. Where a manufacturer who makes an application for type-approval fails to comply with a reasoned request for additional information made under paragraph 5 of article 23 of the AFV Regulation, the approval authority may treat the application as having been withdrawn by the manufacturer.

Refusal of EU type-approval application

6.—(1) The approval authority must refuse an EU type-approval application if the requirements of—

- (a) articles 24 and 26 to 28; or
- (b) article 35,

of the AFV Regulation have not been complied with.

(2) The requirements of article 27 of the AFV Regulation are not complied with if the tests required by that article demonstrate that there is non-compliance with the technical prescriptions mentioned in paragraph 1 of that article.

(3) The requirements of article 28 of the AFV Regulation are not complied with if the approval authority is not satisfied that the applicant has made or will make adequate arrangements to ensure that—

- (a) production will conform to the approved type; or
- (b) the data in the certificates of conformity are correct.

Conformity of production: record keeping

7. The holder of an EU type-approval or whole-vehicle type-approval mentioned in article 28 of the AFV Regulation must compile and retain for inspection by the approval authority for a period of five years commencing with the date of compilation, such records of tests and checks undertaken that are sufficient to demonstrate—

- (a) conformity of production to the approved type;
- (b) compliance of certificates of conformity to article 33 of the AFV Regulation; and
- (c) that the data in certificates of conformity issued by the holder are correct.

Making available on the market or entry into service: derogations

8. The derogations permitted by paragraphs 3 and 4 of article 40 of the AFV Regulation apply.

Review of decisions

9.—(1) A decision to which article 48 of the AFV Regulation applies must be given by notice in writing (“a relevant notice”).

(2) Where the approval authority has given a person a relevant notice, that person may apply to the approval authority for a reconsideration of the decision given in that notice.

(3) An application under paragraph (2) must—

- (a) be made within the period of 28 days beginning on the date when the relevant notice is received; and
- (b) state the reasons for making the application and be accompanied by such further evidence as the person believes supports those reasons.

(4) The approval authority may—

- (a) request 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 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 request the approval authority to appoint an independent assessor to review the decision to which the relevant notice relates.

(7) A request under paragraph (6) must—

- (a) be made not later than 28 days after receipt of the approval authority's notification under paragraph (5); and
- (b) state the reasons for the request.

(8) As soon as reasonably practicable after the date of receipt of the request under paragraph (6), 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.

Withdrawal of approvals: mistake or error

10.—(1) Subject to the provisions of this regulation, the approval authority may decide to withdraw any approval given by it by reason of mistake or error on the part of that authority.

(2) A decision to withdraw an approval must be given by notice in writing (“a relevant notice”) and specify—

- (a) the nature of the mistake or error; and
- (b) the date from which the approval is to be withdrawn, which must be not less than 28 days nor more than six months after the date on which the relevant notice is given.

(3) Regulation 9(2) to (9) applies to the review of a decision under this regulation.

(4) Any review of a decision under this regulation may, subject to the requirement in paragraph (2) (b), vary the date from which the approval is to be withdrawn.

Withdrawal and suspension of approvals: effect

11.—(1) If the holder of an approval which has been withdrawn or suspended pursuant to the AFV Regulation or these Regulations purports by virtue of that approval to—

- (a) issue a certificate of conformity with respect to a vehicle; or
- (b) affix a statutory plate or mark pursuant to article 34 of the AFV Regulation,

the certificate, plate or mark is invalid.

(2) The approval authority may, by notice given to the holder, exempt from paragraph (1) certificates of conformity or classes of certificates of conformity specified in the notice.

(3) The suspension of an approval does not affect the validity of any certificate of conformity issued under it before that suspension.

[^{F1}Products approved in member States or in Northern Ireland

11A.—(1) Paragraphs (2) to (6) apply notwithstanding anything in these Regulations or the AFV Regulation.

(2) A manufacturer or an importer may place a qualifying relevant product on the market in Great Britain.

(3) A distributor may make a qualifying relevant product available on the market in Great Britain.

(4) The Secretary of State may issue a licence in accordance with section 7 of the Vehicle Excise and Registration Act 1994 to a qualifying relevant product which is a vehicle.

(5) The Secretary of State may register a qualifying relevant product which is a vehicle in accordance with section 21 of the Vehicle Excise and Registration Act 1994.

(6) In this regulation—

“qualifying relevant product” means a relevant product—

- (a) in respect of which the manufacturer of the product holds a relevant approval, or
- (b) which the Secretary of State has permitted to be placed on the market, registered or entered into service in accordance with Article 39 of the AFV Regulation as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU Withdrawal Agreement;

“relevant approval” means—

- (a) a valid type-approval issued in accordance with the AFV Regulation, provided that the product to which it relates was in the United Kingdom before IP completion day,
- (b) a valid type-approval issued in accordance with section 55(1A) or (1D) of the Road Traffic Act 1988,
- (c) a valid type-approval issued in relation to a qualifying Northern Ireland good, within the meaning of section 47 of the United Kingdom Internal Market Act 2020, in accordance with the Motorcycles Regulation as it has effect in EU law,
- (d) a valid type approval issued on or after IP completion day by the Secretary of State in accordance with the AFV Regulation as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU Withdrawal Agreement,

and includes any such approval which is revised or extended..]

F1 [Reg. 11A](#) inserted (31.12.2022 at 11.00 p.m.) by [The Road Vehicles and Non-Road Mobile Machinery \(Type-Approval\) \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1273\)](#), regs. 1(2), **9**

Service

12.—(1) Paragraphs (2) to (4) of this regulation have effect in relation to any notice or other document required or authorised by these Regulations or the AFV Regulation to be given to or served on any person by the approval authority, market surveillance authority or enforcement authority.

- (2) Any such notice or document may be given to or served on the person in question—
- (a) by delivering it to the person;
 - (b) by leaving it at that person's proper address;
 - (c) by sending it by post to that person at that address;
 - (d) by means of any form of electronic communication agreed with the person to whom it is to be sent.

- (3) Any such notice or document may—
- (a) in the case of a body corporate, be given to or served on an officer of that body;
 - (b) in the case of a partnership, be given to or served on any partner;
 - (c) in the case of an unincorporated association other than a partnership, be given to or served on any member of the governing body of that association.

(4) For the purposes of this regulation and section 7 of the Interpretation Act 1978 (service of documents by post) ^{M2} in its application to this regulation, the proper address of any person is that person's last known address (whether of the person's residence or of a place where the person carries on business or is employed) and also—

- (a) in the case of a body corporate or an officer of that body, the address of the registered or principal office of that body in the United Kingdom;
- (b) in the case of an unincorporated association other than a partnership or a member of its governing body, its principal office in the United Kingdom;
- (c) 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 notice or document required or authorised by these Regulations or the AFV Regulation to be given to or served on any person by the approval authority.

(5) Any notice or other document or information required by these Regulations or the AFV Regulation to be given to or served by any person on the approval authority, market surveillance authority or enforcement authority must be—

- (a) in writing; or
- (b) in an electronic format accepted by, and sent by means of any form of electronic communication agreed with, the approval authority, market surveillance authority or enforcement authority (as appropriate).

Marginal Citations

M2 1978 c.30.

Provision of testing stations

13. The approval authority may provide and maintain stations where examinations of relevant products may be carried out for the purposes of these Regulations or the AFV Regulation and may provide and maintain apparatus for carrying out such examinations.

Provision of technical information: loss or damage

14.—(1) Where a duty is imposed on a manufacturer by Chapter XIV of the AFV Regulation (provision of technical information), any breach of the duty which causes a person to sustain loss or damage is actionable at the suit of that person.

(2) But, in any proceedings brought against a manufacturer in pursuance of this regulation, it is a defence for the manufacturer to show that the manufacturer took all reasonable steps and exercised all due diligence to avoid the breach.

[^{F2}Defeat devices

14A.—(1) For the purposes of article 72 of the AFV Regulation, “use of a defeat device” is where a vehicle manufactured by a person—

- (a) is placed on the market or registered in the United Kingdom; and
- (b) that vehicle is fitted with a defeat device.

(2) A separate offence under article 19(3) of the AFV Regulation is committed in respect of each such vehicle placed on the market or registered.

(3) Where, following examination of vehicles associated with a single vehicle type approval, the enforcement authority is satisfied that two or more of those vehicles—

- (a) are vehicles for which a certificate of conformity has been issued in respect of that approval; and
- (b) are fitted with a defeat device,

each vehicle associated with that single vehicle type approval is to be taken to be similarly fitted with a defeat device unless proved otherwise by the manufacturer.

(4) In paragraph (3), a vehicle is associated with a vehicle type approval if a certificate of conformity relating to that type approval has been issued in respect of that vehicle.

(5) In this regulation—

“auxiliary emission control strategy” has the meaning given in article 1(10) of Commission Delegated Regulation (EU) 2017/654;

“Commission Delegated Regulation (EU) 2017/654” means Commission Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery;

“defeat device” means—

- (a) a defeat strategy as defined in article 3(63) of Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery; or
- (b) an auxiliary emission control strategy which is prohibited under point 2.3.7 of Annex IV of Commission Delegated Regulation (EU) 2017/654;

“placed on the market” means supplying or making available, whether in return for payment or free of charge, to a third party, and includes exposure for sale to a third party;

“registered” means registered pursuant to section 21 of the Vehicle Excise and Registration Act 1994.]

F2 Reg. 14A inserted (1.7.2018) by The Road Vehicles (Defeat Devices, Fuel Economy and Type-Approval) (Amendment) Regulations 2018 (S.I. 2018/673), regs. 1(c), **21**

Offences, enforcement and civil penalties

15.—(1) Schedule 1 (offences, penalties, enforcement and other matters) has effect.

(2) Except in paragraph 2 of Schedule 1 or in relation to the expression “Officer of Revenue and Customs”, a reference in Schedule 1 to an officer is a reference to any person authorised by the enforcement authority to assist the authority in enforcing these Regulations and the AFV Regulation.

Consequential amendments and revocations

16. Schedule 2 (consequential amendments and revocations) has effect.

Signed by authority of the Secretary of State for Transport

Department for Transport

Jesse Norman
Parliamentary Under Secretary of State

Changes to legislation:

There are currently no known outstanding effects for the The Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018.