

Regulation (EC) No 78/2009 of the European Parliament and of the Council of 14 January 2009 on the type-approval of motor vehicles with regard to the protection of pedestrians and other vulnerable road users, amending Directive 2007/46/EC and repealing Directives 2003/102/EC and 2005/66/EC (Text with EEA relevance)

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down requirements for the construction and functioning of motor vehicles and frontal protection systems in order to reduce the number and severity of injuries to pedestrians and other vulnerable road users who are hit by the fronts of vehicles and in order to avoid such collisions.

Article 2

Scope

- 1 This Regulation shall apply to the following:
 - a motor vehicles of category M₁ as defined in Article 3(11) of Directive 2007/46/EC and in point 1 of Section A of Annex II thereto, subject to paragraph 2 of this Article;
 - b motor vehicles of category N₁ as defined in Article 3(11) of Directive 2007/46/EC and in point 2 of Section A of Annex II thereto, subject to paragraph 2 of this Article;
 - c frontal protection systems fitted as original equipment to the vehicles referred to in points (a) and (b) or supplied as separate technical units intended for fitting to such vehicles.
- 2 Sections 2 and 3 of Annex I to this Regulation shall not apply to:
 - a vehicles of category N₁; and
 - b vehicles of category M₁ derived from N₁ and of maximum mass exceeding 2 500 kg; where the driver position 'R-point' is either forward of the front axle or longitudinally rearwards of the front axle transverse centreline by a maximum of 1 100 mm.

Article 3

Definitions

For the purposes of this Regulation:

1. 'A-pillar' means the foremost and outermost roof support extending from the chassis to the roof of the vehicle;
2. 'brake assist system' means a function of the braking system that deduces an emergency braking event from a characteristic of the driver's brake demand and, under such conditions:

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- (a) assists the driver to deliver the maximum achievable braking rate; or
 - (b) is sufficient to cause full cycling of the Anti-lock Braking System;
3. ‘bumper’ means any front, lower, outer structures of a vehicle, including attachments thereto, which are intended to give protection to a vehicle when involved in a low speed frontal collision with another vehicle; it does not include, however, any frontal protection system;
 4. ‘frontal protection system’ means a separate structure or structures, such as a bull bar, or a supplementary bumper which, in addition to the original-equipment bumper, is intended to protect the external surface of the vehicle from damage in the event of a collision with an object, with the exception of structures having a mass of less than 0,5 kg, intended to protect only the vehicle’s lights;
 5. ‘maximum mass’ means the technically permissible maximum laden mass stated by the manufacturer pursuant to point 2.8 of Annex I to Directive 2007/46/EC;
 6. ‘vehicles of category N₁’ derived from M₁’ means those vehicles of N₁ category which, forward of the A-pillars, have the same general structure and shape as a pre-existing M₁ category vehicle;
 7. ‘vehicles of category M₁’ derived from N₁’ means those vehicles of M₁ category which, forward of the A-pillars, have the same general structure and shape as a pre-existing N₁ category vehicle.

CHAPTER II

OBLIGATIONS OF THE MANUFACTURERS

Article 4

Technical requirements

1 In accordance with Article 9, manufacturers shall ensure that vehicles placed on the market are equipped with a type-approved brake assist system in accordance with the requirements of Section 4 of Annex I and that such vehicles comply with the requirements of Sections 2 or 3 of Annex I.

2 In accordance with Article 10, manufacturers shall ensure that frontal protection systems either fitted as original equipment to vehicles placed on the market or supplied as separate technical units comply with the requirements of Sections 5 and 6 of Annex I.

3 Manufacturers shall provide to the approval authorities appropriate data on the specifications and test conditions of the vehicle and frontal protection system. The data shall include information required to check the functioning of any active safety devices installed in the vehicle.

4 In the case of frontal protection systems to be supplied as separate technical units, manufacturers shall provide to the approval authorities appropriate data about the systems specifications and test conditions.

5 Frontal protection systems, as separate technical units, shall not be distributed, offered for sale or sold unless accompanied by a list of vehicle types for which the frontal protection

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system is type-approved, as well as by clear assembly instructions. The assembly instructions shall contain specific installation prescriptions, including fixing modes for the vehicles for which the unit has been approved, to enable the approved components to be mounted on that vehicle in a manner that complies with the relevant provisions of Section 6 of Annex I.

6 The Commission shall adopt implementing measures laying down technical provisions for the application of the requirements set out in Annex I. Those measures, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 40(2) of Directive 2007/46/EC.

Article 5

Application for EC type-approval

1 The manufacturer shall submit to the approval authority the information document, established in accordance with the model set out in Part 1 of Annex II, when applying for EC type-approval of a type of a vehicle with regard to pedestrian protection.

The manufacturer shall submit to the technical service responsible for conducting the type-approval tests a vehicle which is representative of the vehicle type to be approved.

2 The manufacturer shall submit to the approval authority the information document, established in accordance with the model set out in Part 2 of Annex II, when applying for EC type-approval of a type of a vehicle with regard to it being fitted with a frontal protection system.

The manufacturer shall submit to the technical service responsible for conducting the type-approval tests a vehicle which is representative of the vehicle type to be approved fitted with a frontal protection system. At the request of that technical service, the manufacturer shall also submit specific components or samples of materials used.

3 The manufacturer shall submit to the approval authority the information document, established in accordance with the model set out in Part 3 of Annex II, when applying for EC separate technical unit type-approval of a type of a frontal protection system.

The manufacturer shall submit to the technical service responsible for conducting the type-approval tests one sample of the type of frontal protection system to be approved. Where that technical service considers it necessary, it may request further samples. The sample(s) shall be clearly and indelibly marked with the applicant's trade name or mark and the type designation. The manufacturer shall make provision for the subsequent compulsory display of the EC type-approval mark.

CHAPTER III

OBLIGATIONS OF THE AUTHORITIES OF THE MEMBER STATES

Article 6

Granting of EC type-approval

1 If the relevant requirements are met, the approval authority shall grant EC type-approval and issue a type-approval number in accordance with the numbering system set out in Annex VII to Directive 2007/46/EC.

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2 For the purposes of Section 3 of that type-approval number, one of the following letters shall be used:

- a for the approval of vehicles with regard to pedestrian protection:
 - ‘A’ if the vehicle complies with Section 2 of Annex I,
 - ‘B’ if the vehicle complies with Section 3 of Annex I;
- b for the approval of a vehicle with regard to it being fitted with a frontal protection system or the approval of a frontal protection system to be supplied as a separate technical unit:
 - ‘A’ if the frontal protection system complies with Section 5 of Annex I with respect to the application of points 5.1.1.1, 5.1.2.1, 5.2 and 5.3 thereof,
 - ‘B’ if the frontal protection system complies with Section 5 of Annex I with respect to the application of points 5.1.1.2, 5.1.2.1, 5.2 and 5.3 thereof,
 - ‘X’ if the frontal protection system complies with Section 5 of Annex I with respect to the application of points 5.1.1.3, 5.1.2.2, 5.2 and 5.3 thereof.

3 An approval authority shall not assign the same number to another type of vehicle or type of frontal protection system.

4 For the purposes of paragraph 1, the approval authority shall deliver the EC type-approval certificate established in accordance with the following:

- a the model set out in Part 1 of Annex III for a type of a vehicle with regard to pedestrian protection;
- b the model set out in Part 2 of Annex III for a type of a vehicle with regard to it being fitted with a frontal protection system;
- c the model set out in Part 3 of Annex III for a type of a frontal protection system to be supplied as a separate technical unit.

Article 7

EC type-approval mark

Every frontal protection system approved in accordance with this Regulation under the type-approval of a vehicle with regard to it being fitted with a frontal protection system, or the type-approval of a frontal protection system to be supplied as a separate technical unit, shall comply with the requirements of this Regulation and shall be granted, and consequently bear, an EC type-approval mark established in accordance with the provisions set out in Annex IV.

Article 8

Modification of the type and amendments to approvals

Any modification of the vehicle forward of the A-pillars or of the frontal protection system which affects either the structure, the main dimensions, the materials of the outer surfaces of the vehicle, the fixing methods or the external or internal component arrangement, and which may have a significant influence on the results of the tests, shall be regarded as an amendment pursuant to Article 13 of Directive 2007/46/EC and thus require a new application for type-approval.

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Article 9

Timetable for application to vehicles

1 With effect from the date set out in the second paragraph of Article 16, national authorities shall refuse, on grounds relating to pedestrian protection, to grant EC type-approval or national type-approval, in respect of the following new vehicle types:

- a category M₁ which do not comply with the technical provisions set out in Section 4 of Annex I;
- b category M₁ of maximum mass not exceeding 2 500 kg which do not comply with the technical provisions set out in Section 2 or Section 3 of Annex I;
- c category N₁ derived from M₁ and of maximum mass not exceeding 2 500 kg which do not comply with the technical provisions set out in Sections 2 and 4 or Sections 3 and 4 of Annex I.

2 With effect from 24 February 2011, national authorities shall, on grounds relating to pedestrian protection, consider the certificates of conformity to be no longer valid for the purposes of Article 26 of Directive 2007/46/EC, and shall prohibit the registration, sale and entry into service of the following new vehicles which do not comply with the technical provisions set out in Section 4 of Annex I to this Regulation:

- a vehicles of category M₁;
- b vehicles of category N₁ derived from M₁ and of maximum mass not exceeding 2 500 kg.

3 With effect from 24 February 2013, national authorities shall refuse, on grounds relating to pedestrian protection, to grant EC type-approval or national type-approval, in respect of the following new vehicle types:

- a category M₁ of maximum mass not exceeding 2 500 kg which do not comply with the technical provisions set out in Section 3 of Annex I;
- b category N₁ derived from M₁ and of maximum mass not exceeding 2 500 kg which do not comply with the technical provisions set out in Section 3 of Annex I.

4 With effect from 31 December 2012, national authorities shall, on grounds relating to pedestrian protection, consider the certificates of conformity to be no longer valid for the purposes of Article 26 of Directive 2007/46/EC, and shall prohibit the registration, sale and entry into service of the following new vehicles which do not comply with the technical provisions set out in Section 2 or Section 3 of Annex I to this Regulation:

- a vehicles of category M₁ of maximum mass not exceeding 2 500 kg;
- b vehicles of category N₁ derived from M₁, and of maximum mass not exceeding 2 500 kg.

5 With effect from 24 February 2015, national authorities shall refuse, on grounds relating to pedestrian protection, to grant EC type-approval or national type-approval in respect of the following new vehicle types:

- a category M₁ of maximum mass exceeding 2 500 kg which do not comply with the technical provisions set out in Section 3 of Annex I;
- b category N₁ which do not comply with the technical provisions set out in Sections 3 and 4 of Annex I.

6 With effect from 24 August 2015, national authorities shall, on grounds relating to pedestrian protection, consider the certificates of conformity to be no longer valid for the purposes of Article 26 of Directive 2007/46/EC, and shall prohibit the registration, sale and entry

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into service of new category N₁ vehicles which do not comply with the technical provisions set out in Section 4 of Annex I to this Regulation.

7 With effect from 24 February 2018, national authorities shall, on grounds relating to pedestrian protection, consider the certificates of conformity to be no longer valid for the purposes of Article 26 of Directive 2007/46/EC, and shall prohibit the registration, sale and entry into service of the following new vehicles:

- a category M₁ of maximum mass not exceeding 2 500 kg, which do not comply with the technical provisions set out in Section 3 of Annex I to this Regulation;
- b category N₁ derived from M₁, and of maximum mass not exceeding 2 500 kg, which do not comply with the technical provisions set out in Section 3 of Annex I to this Regulation.

8 With effect from 24 August 2019, national authorities shall, on grounds relating to pedestrian protection, consider the certificates of conformity to be no longer valid for the purposes of Article 26 of Directive 2007/46/EC, and shall prohibit the registration, sale and entry into service of the following new vehicles:

- a category M₁ of maximum mass exceeding 2 500 kg, which do not comply with the technical provisions set out in Section 3 of Annex I to this Regulation;
- b category N₁ which do not comply with the technical provisions set out in Section 3 of Annex I to this Regulation.

9 Without prejudice to paragraphs 1 to 8 of this Article and subject to the entry into force of the measures adopted pursuant to Article 4(6), if a manufacturer so requests, the national authorities shall not, on grounds relating to pedestrian protection, refuse to grant EC type-approval or national type-approval for a new type of vehicle or prohibit the registration, sale or entry into service of a new vehicle, where the vehicle concerned complies with the technical provisions set out in Sections 3 or 4 of Annex I.

Article 10

Application to frontal protection systems

1 National authorities shall refuse to grant EC type-approval or national type-approval of a new type of vehicle with regard to it being fitted with a frontal protection system, or EC separate technical unit type-approval of a new type of frontal protection system, which does not comply with the requirements laid down in Sections 5 and 6 of Annex I.

2 National authorities shall, on grounds relating to frontal protection systems, consider the certificates of conformity to be no longer valid for the purposes of Article 26 of Directive 2007/46/EC and shall prohibit the registration, sale and entry into service of new vehicles which do not comply with the requirements laid down in Sections 5 and 6 of Annex I to this Regulation.

3 The requirements set out in Sections 5 and 6 of Annex I to this Regulation shall apply to frontal protection systems supplied as separate technical units for the purposes of Article 28 of Directive 2007/46/EC.

Article 11

Collision avoidance systems

1 Upon assessment by the Commission, vehicles equipped with collision avoidance systems may not have to fulfil the test requirements laid down in Sections 2 and 3 of Annex I

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in order to be granted an EC type-approval or a national type-approval for a type of a vehicle with regard to pedestrian protection, or to be sold, registered or to enter into service.

2 The Commission shall present the assessment to the European Parliament and to the Council, accompanied by proposals amending this Regulation if appropriate.

Any measures proposed shall ensure levels of protection which are at least equivalent, in terms of actual effectiveness, to those provided by Sections 2 and 3 of Annex I.

Article 12

Monitoring

1 The national authorities shall provide the Commission with the results of the monitoring referred to in points 2.2, 2.4 and 3.2 of Annex I on a yearly basis and at the latest by 28 February of the year following that of their acquisition.

The requirement to provide those results shall cease to apply from 24 February 2014.

2 The Commission may, on the basis of the results of the monitoring completed under points 2.2, 2.4 and 3.2 of Annex I, adopt implementing measures as appropriate.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 40(2) of Directive 2007/46/EC.

3 The Commission, acting on the basis of relevant information communicated by the approval authorities and interested parties as well as on the basis of independent studies, shall monitor the technical developments in the field of enhanced passive safety requirements, brake assist and other active safety technologies which may provide improved protection to vulnerable road users.

4 By 24 February 2014, the Commission shall review the feasibility and application of any such enhanced passive safety requirements. It shall review the functioning of this Regulation with regard to the use and effectiveness of brake assist and other active safety technologies.

5 The Commission shall submit a report to the European Parliament and the Council, accompanied by proposals on the subject as appropriate.

Article 13

Penalties

1 Member States shall lay down the provisions on penalties applicable for infringement by manufacturers of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 24 August 2010 and shall notify it without delay of any subsequent amendment affecting them.

2 The types of infringements which are subject to a penalty shall include at least the following:

- a making false declarations during the approval procedures or procedures leading to a recall;
- b falsifying test results for type-approval;

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- c withholding data or technical specifications which could lead to recall or withdrawal of type-approval;
- d refusal to provide access to information.

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

Article 14

Amendments to Directive 2007/46/EC

Directive 2007/46/EC shall be amended in accordance with Annex V to this Regulation.

Article 15

Repeal

Directives 2003/102/EC and 2005/66/EC shall be repealed with effect from the date set out in the second paragraph of Article 16 of this Regulation.

References to the repealed Directives shall be construed as references to this Regulation.

Article 16

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 24 November 2009 with the exception of Article 4(6) and Article 9(9) which shall apply from the day of entry into force and Article 9(2) to (8) which shall apply from the dates set therein.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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Changes and effects yet to be applied to :

- Ch. 3 heading words substituted by S.I. 2022/1273 reg. 50(6)
- Art. 2(1) words substituted by S.I. 2022/1273 reg. 50(2)
- Art. 4(3) words substituted by S.I. 2022/1273 reg. 50(4)(a)
- Art. 4(4) words substituted by S.I. 2022/1273 reg. 50(4)(a)
- Art. 4(6) substituted by S.I. 2022/1273 reg. 50(4)(b)
- Art. 5 heading word substituted by S.I. 2022/1273 reg. 50(5)
- Art. 5 word substituted by S.I. 2022/1273 reg. 50(5)
- Art. 6 heading word substituted by S.I. 2022/1273 reg. 50(7)(a)
- Art. 6 word substituted by S.I. 2022/1273 reg. 50(7)(a)
- Art. 6(1) words substituted by S.I. 2022/1273 reg. 50(7)(b)
- Art. 6(3) words substituted by S.I. 2022/1273 reg. 50(7)(c)
- Art. 7 heading word substituted by S.I. 2022/1273 reg. 50(8)(a)
- Art. 7 words substituted by S.I. 2022/1273 reg. 50(8)(b)
- Art. 8 words substituted by S.I. 2022/1273 reg. 50(9)
- Art. 9 words substituted by S.I. 2022/1273 reg. 50(10)(a)
- Art. 9(1) words omitted by S.I. 2022/1273 reg. 50(10)(b)(ii)
- Art. 9(1) words substituted by S.I. 2022/1273 reg. 50(10)(b)(i)
- Art. 9(2) words substituted by S.I. 2022/1273 reg. 50(10)(c)(i)
- Art. 9(2) words substituted by S.I. 2022/1273 reg. 50(10)(c)(ii)
- Art. 9(3) words omitted by S.I. 2022/1273 reg. 50(10)(d)(ii)
- Art. 9(3) words substituted by S.I. 2022/1273 reg. 50(10)(d)(i)
- Art. 9(4) omitted by S.I. 2022/1273 reg. 50(10)(e)
- Art. 9(5) words omitted by S.I. 2022/1273 reg. 50(10)(f)(ii)
- Art. 9(5) words substituted by S.I. 2022/1273 reg. 50(10)(f)(i)
- Art. 9(6) words substituted by S.I. 2022/1273 reg. 50(10)(g)(i)
- Art. 9(6) words substituted by S.I. 2022/1273 reg. 50(10)(g)(ii)
- Art. 9(7) words substituted by S.I. 2022/1273 reg. 50(10)(g)(i)
- Art. 9(7) words substituted by S.I. 2022/1273 reg. 50(10)(g)(ii)
- Art. 9(8) words substituted by S.I. 2022/1273 reg. 50(10)(g)(i)
- Art. 9(8) words substituted by S.I. 2022/1273 reg. 50(10)(g)(ii)
- Art. 9(9) words omitted by S.I. 2022/1273 reg. 50(10)(h)(ii)
- Art. 9(9) words substituted by S.I. 2022/1273 reg. 50(10)(h)(i)
- Art. 10(1) word substituted by S.I. 2022/1273 reg. 50(11)(a)(ii)
- Art. 10(1) words omitted by S.I. 2022/1273 reg. 50(11)(a)(iii)
- Art. 10(1) words substituted by S.I. 2022/1273 reg. 50(11)(a)(i)
- Art. 10(2) words substituted by S.I. 2022/1273 reg. 50(11)(b)(i)
- Art. 10(2) words substituted by S.I. 2022/1273 reg. 50(11)(b)(ii)
- Art. 10(3) words substituted by S.I. 2022/1273 reg. 50(11)(c)
- Art. 11-14 omitted by S.I. 2022/1273 reg. 50(12)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Annex list word substituted by S.I. 2022/1273 reg. 51(2)
- Signature words omitted by S.I. 2022/1273 reg. 50(13)
- Annex 1 para. 1.8 words substituted by S.I. 2022/1273 reg. 51(3)
- Annex 2 word substituted by S.I. 2022/1273 reg. 51(4)(a)
- Annex 2 Pt. 1 heading word substituted by S.I. 2022/1273 reg. 51(4)(b)
- Annex 2 Pt. 2 words substituted by S.I. 2022/1273 reg. 51(4)(c)

- Annex 2 Pt. 3 words substituted by S.I. 2022/1273 reg. 51(4)(c)
- Annex 2 Pt. 3 notes words substituted by S.I. 2022/1273 reg. 51(5)
- Annex 3 Pt. 1 Addendum notes word substituted by S.I. 2022/1273 reg. 51(6)(e)
- Annex 3 Pt. 3 heading words inserted by S.I. 2022/1273 reg. 51(6)(d)(i)
- Annex 3 words substituted by S.I. 2022/1273 reg. 51(6)(a)
- Annex 3 Pt. 1 words substituted by S.I. 2022/1273 reg. 51(6)(b)
- Annex 3 Pt. 2 words substituted by S.I. 2022/1273 reg. 51(6)(b)
- Annex 3 Pt. 3 words substituted by S.I. 2022/1273 reg. 51(6)(b)
- Annex 3 Pt. 1 point 000.4 note words substituted by S.I. 2022/1273 reg. 51(6)(c)
- Annex 3 Pt. 2 point 000.4 note words substituted by S.I. 2022/1273 reg. 51(6)(c)
- Annex 3 Pt. 3 s. 1para. 000.7 word substituted by S.I. 2022/1273 reg. 51(6)(d)(ii)
- Annex 3 Pt. 3 s. 2para. 1.5.1 word substituted by S.I. 2022/1273 reg. 51(6)(d)(iii)
- Art. 3(5) words substituted by S.I. 2022/1273 reg. 50(3)
- Annex 4 Appendix image substituted by S.I. 2022/1273 reg. 51(7)(d)(i)
- Annex 4 Appendix words omitted by S.I. 2022/1273 reg. 51(7)(d)(ii)
- Annex 4 heading words substituted by S.I. 2022/1273 reg. 51(7)(a)
- Annex 4 words substituted by S.I. 2022/1273 reg. 51(7)(a)
- Annex 4 point 1.1 words substituted by S.I. 2022/1273 reg. 51(7)(b)
- Annex 4 point 1.2 words substituted by S.I. 2022/1273 reg. 51(7)(c)