

2003 No. 3314

CONSUMER PROTECTION

**The Road Vehicles (Brake Linings Safety) (Amendment)
Regulations 2003**

Made - - - - - 18th December 2003

Laid before Parliament 19th December 2003

Coming into force - - - 1st August 2004

The Secretary of State for Transport, in exercise of the powers conferred by section 11 of the Consumer Protection Act 1987^(a), and of all other powers enabling him in that behalf, and after consultation in accordance with section 11(5) of that Act with such organisations as appear to him to be representative of interests substantially affected by the following Regulations, the Health and Safety Commission in relation to the application of the following Regulations to Great Britain and such other persons as he considers appropriate, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Brake Linings Safety) (Amendment) Regulations 2003 and shall come into force on 1st August 2004.

Preliminary

2. The Road Vehicles (Brake Linings Safety) Regulations 1999^(b) shall be amended in accordance with the following provisions of these Regulations.

Amendment of regulation 2 (interpretation)

3.—(1) Regulation 2(1) shall be amended as follows.

(2) In the definition of “the Braking Devices Directive”, after “98/12/EC” there shall be inserted “and Commission Directive 2002/78/EC^(c)”.

(3) After the definition of “ECE Regulation 90.01”, there shall be inserted the following definition—

““EC type approval” means—

- (a) vehicle type approval for a light passenger vehicle (as defined by section 85 of the Road Traffic Act 1988^(d)) granted pursuant to the Framework Directive; or
- (b) system, component or separate technical unit type approval granted pursuant to an EC or EEC Directive;”.

^(a) 1987 c. 43.

^(b) S.I. 1999/2978.

^(c) OJ No. L267, 4.10.02, p. 23.

^(d) 1988 c. 52; the definition of “light passenger vehicle” was inserted into section 85 by S.I. 1992/3107; section 57 was amended by S.I. 1992/3107.

(4) For the definition of “the Framework Directive” there shall be substituted the following definition—

““the Framework Directive” means Council Directive 70/156/EEC(a) as amended by Council Directive 87/403/EEC(b), Council Directive 92/53/EEC(c), Commission Directive 93/81/EEC(d), Commission Directive 98/14/EC(e) and Commission Directive 2001/116/EC(f);”.

Substitution of regulation 5 (exceptions to regulation 4)

4. For regulation 5 there shall be substituted—

“Exceptions to regulation 4

5.—(1) Regulation 4 shall not apply in relation to replacement brake linings for fitting, or fitted, to a relevant vehicle which was first used before 1st September 1999, if the replacement brake linings are not such as to cause the vehicle to contravene the version of the Braking Devices Directive that was applicable to it when it was first used.

(2) Regulation 4 shall not apply in relation to replacement brake linings if—

(a) the linings are intended for fitting, or fitted, on or after 1st August 2004 to a relevant vehicle falling within any of the following descriptions—

(i) a vehicle for which there has been granted a certificate of conformity (as defined by section 57 of the Road Traffic Act 1988) or a Minister’s approval certificate (as defined by section 58 of that Act), under the Motor Vehicles (Type Approval for Goods Vehicles) (Great Britain) Regulations 1982(g), the Motor Vehicles (Type Approval) (Great Britain) Regulations 1984(h) or the Motor Vehicles (Approval) Regulations 2001(i);

(ii) a vehicle for which there has been granted an equivalent approval in another member State;

(iii) a vehicle in respect of which the design of the braking system has been modified to enhance the brake performance beyond that required to secure EC type approval; and

(b) the linings are packaged in accordance with the requirements of paragraph (3).

(3) The requirements are that—

(a) the replacement brake linings are packaged in axle sets; and

(b) the packaging—

(i) is of such a nature that any opening or re-sealing of it will be apparent; and

(ii) is marked with the words “The contents of this package are components for which approval cannot be obtained under Annex XV to Council Directive 71/320/EEC (as inserted by Commission Directive 98/12/EC) or UN ECE Regulation 90.01 as required by the Road Vehicles (Brake Linings Safety) Regulations 1999 (as amended)”.

(4) Regulation 4 shall not apply in relation to replacement brake linings supplied by a vehicle manufacturer provided that the vehicle manufacturer complies with the requirements of points 2.3 to 2.3.4 in Annex 1 to the Braking Devices Directive(j) in relation to a relevant vehicle which was first used on or after 1st September 1999.

(a) OJ No. L42, 23.3.70, p. 1.

(b) OJ No. L220, 8.8.87, p. 44.

(c) OJ No. L225, 10.8.92, p. 1.

(d) OJ No. L264, 23.10.93, p. 49.

(e) OJ No. L91, 25.3.98, p. 1.

(f) OJ No. L18, 21.1.02, p. 1.

(g) S.I. 1982/1271 to which there are amendments not relevant to these Regulations.

(h) S.I. 1984/981 to which there are amendments not relevant to these Regulations.

(i) S.I. 2001/25.

(j) Commission Directive 2002/78/EC (OJ No. L267, 4.10.02, p. 23) added points 2.3 to 2.3.4 in Annex 1 of Council Directive 71/320/EEC (OJ No. L202, 6.9.71, p. 37).

(5) This regulation is without prejudice to regulation 3.”

Signed by authority of the Secretary of State

18th December 2003

David Jamieson
Parliamentary Under Secretary of State,
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Road Vehicles (Brake Linings Safety) Regulations 1999 (“the Principal Regulations”).

Regulation 3 amends definitions in regulation 2(1) of the Principal Regulations and inserts a new definition.

Regulation 4 substitutes a new regulation for regulation 5 of the Principal Regulations so as to provide for three exceptions to the prohibitions in regulation 4(1) against the supply and fitting of brake linings which do not meet the requirements of regulation 4(2). Paragraph (1) of the substituted regulation 5 repeats the exception in the original regulation 5 and paragraphs (2) and (4) add two new exceptions. All three exceptions are subject to the provision of regulation 3 of the Principal Regulations which prohibits the supply and fitting of brake linings containing asbestos. The new exceptions are permitted by the amendments made by article 3 of Commission Directive 2002/78/EC to Council Directive 71/320/EEC as amended by Commission Directive 98/12/EC.

A Regulatory Impact Assessment has been prepared and copies can be obtained from the Department for Transport, Zone 2/04, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone: 020 7944 2083). Copies are being placed in the Libraries of each House of Parliament.

Copies of relevant Directives and ECE Regulations can be obtained from the Stationery Office. Details of the Directives and Regulations are set out below.

These Regulations have been notified to the European Commission pursuant to Directive 98/34/EC of 22nd June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (O.J. No. L204, 21.7.98, p. 37).

EC DIRECTIVES

<i>Principal Instrument</i>	<i>Relevant Amending Instruments</i>
Council Directive 70/156/EEC of 6th February 1970 (OJ No. L42, 23.2.70, p. 1).	Council Directive 87/403/EEC (OJ No. L220, 8.8.87, p. 44), Council Directive 92/53/EEC (OJ No. L225, 10.8.92, p. 1), Commission Directive 93/81 (OJ No. L264, 23.10.93, p. 49), Commission Directive 98/14/EC (OJ No. L91, 25.3.98, p. 1) and Commission Directive 2001/116/EC (OJ No. L18, 21.1.2002, p. 1).
Council Directive 71/320/EEC of 26th July 1971 (OJ No. L202, 6.9.71, p. 37).	Commission Directive 74/132/EEC of 11th February 1974 (OJ No. L74, 19.3.74, p. 7), Commission Directive 75/524/EEC of 25th July 1975 (OJ No. L236, 8.9.75, p. 3), Commission Directive 79/489/EEC of 18th April 1979 (OJ No. L128, 26.5.79, p. 12), Commission Directive 85/647/EEC of 23rd December 1985 (OJ No. L380, 31.12.85, p.1), Commission Directive 88/194/EEC of 24th March 1988 (OJ No. L92, 9.4.88, p. 47), Commission Directive 91/422/EEC of 15th July 1991 (OJ No. L233, 22.8.91, p. 21, to which there is a corrigendum in OJ No. L275, 2.10.91, p. 36), Commission Directive 98/12/EC of 27th January 1998 (OJ No. L81, 18.3.98, p. 1) and Commission Directive 2002/78/EC of 1st October 2002 (OJ No. L267, 4.10.02, p. 23).

ECE REGULATIONS

<i>Principal Instruments</i>	<i>Relevant Amending Instruments</i>
Regulation 90 annexed to the Agreement of the United Nations Economic Commission for Europe concluded at Geneva on 20th March 1958 concerning the adoption of uniform technical prescription for wheeled vehicles, equipment and parts which can be fitted to and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions.	In force 1st November 1992, amended by the 01 series of amendments on 18th September 1994 and supplement 2 to the 01 series of amendments on 5th March 1997.

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