

## EXPLANATORY MEMORANDUM TO

### THE ROAD VEHICLES AND NON-ROAD MOBILE MACHINERY (TYPE APPROVAL) (AMENDMENT) (EU EXIT) (NO. 2) REGULATIONS 2019

2019 No. 691

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 The purpose of this instrument is to bring forward to 29 March 2019 the commencement of Part 3 of the Road Vehicles and Non-Road Mobile Machinery (Type Approval) (Amendment) (EU Exit) Regulations 2019 (“*the 2019 Regulations*”). An erroneous version of this instrument, in a form other than that approved by resolution of each House of Parliament, was initially made and registered as S.I. 2019 No. 490. That instrument has now been withdrawn, and the correct version made as S.I. 2019 No. 648. If the commencement of Part 3 of that instrument were not now brought forward to 29 March 2019, the instrument’s commencement provisions would not operate correctly.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument does not allow for the required 21 days prior to coming into force, and will also result in the 2019 Regulations breaching the 21 day rule. The 2019 Regulations, as approved by resolution of each House of Parliament, allows for 22 days before coming into force of Part 3 of that instrument. Due to the need to withdraw the erroneous version and make that instrument, there are not now 22 days before Exit day, when the SI needs to come into force.
- 3.2 Part 3 of the 2019 Regulations, to correct a misalignment between EU-derived legislation in Great Britain and Northern Ireland, needs to be in force before Exit Day, when those provisions are then further amended by the 2019 Regulations.
- 3.3 The EU Exit related parts of the 2019 Regulations will also now breach the 21 day rule, as they still need to come into force on Exit day, as approved by resolution of each House of Parliament, in order to avoid disruption to the processes of vehicle type approval and registration, as the latter is based on presenting the correct type approval certificate.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.4 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### **4. Extent and Territorial Application**

- 4.1 Although the territorial extent of the instrument being amended (the 2019 Regulations) includes various or all parts of the United Kingdom, depending on provision, the provision (Part 3: Regulation 4) whose commencement is being shortened by this Instrument only extends to Northern Ireland.
- 4.2 The territorial application of this instrument is identical to the extent.

#### **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **6. Legislative Context**

- 6.1 An erroneous version of the 2019 Regulations, in a form other than that approved by resolution of each House of Parliament, was initially made and registered as S.I. 2019 No. 490. That instrument has now been withdrawn, and the correct version made as S.I. 2019 No. 648.
- 6.2 The 2019 Regulations correct a number of deficiencies in existing legislation relating to type approval arising as a result of the UK's withdrawal from the EU. These deficiencies are found both in domestic legislation and in directly applicable EU legislation.
- 6.3 The 2019 Regulations also make a correction (in Part 3: Regulation 4) which is independent of EU Exit. It corrects the definition of EC Certificate of Conformity in the Road Traffic Order 1981 (1981 No. 154 (N.I.1)) in Northern Ireland, correctly transposing Directive 2007/46/EC and Regulation (EU) 167/2013 and thus harmonising the Order with the corresponding law in Great Britain (the Road Traffic Act 1988, c.16) before Exit Day.
- 6.4 Due to the remaking of the 2019 Regulations, the commencement provision relating to the correction mentioned in paragraph 6.3 above will no longer function correctly, as it allows 22 days for coming into force, such that the latter would now occur after Exit Day. It is thus necessary to shorten the commencement period, so that Regulation 4 of the 2019 Regulations can come into force on 29 March, in advance of the remaining changes due to be made on Exit day.
- 6.5 This instrument thus amends the commencement date in Regulation 1 of the 2019 Regulations to 29 March, and itself comes into force on the day after it is laid before Parliament in order to effect this change in time.

#### **7. Policy background**

##### *What is being done and why?*

- 7.1 A range of road vehicles: passenger and goods vehicles, motorcycles and agricultural vehicles, as well as engines intended for fitment in non-road mobile machinery (NRMM), are currently subject to obligatory EU type approval, in order to ensure that newly manufactured products conform to high standards of safety and environmental protection.
- 7.2 The Road Vehicles and Non-Road Mobile Machinery (Type Approval) (Amendment) (EU Exit) Regulations 2019 are being made as an affirmative instrument under the

European Union (Withdrawal) Act 2018. The primary aim of those regulations is to eliminate a number of deficiencies in type approval legislation, to ensure that the system functions in a coherent manner after Exit Day.

- 7.3 Alongside this, those regulations contain a provision (Regulation 4) made under the European Communities Act 1972, ensuring correct implementation of two European instruments on vehicle type approval. The definition of European Certificate of Conformity in the Road Traffic Act 1988 (c.16) (which applies to Great Britain only) is currently wider than in the Road Traffic Order (Northern Ireland) 1981 (1981 No. 154 (N.I.1)), so the latter is being amended in order to align with the former.
- 7.4 Because any European Certificate of Conformity valid in Great Britain is also treated as valid to register vehicles in NI by virtue of a separate provision in the Road Traffic Order, there are currently no practical issues with this misalignment. Vehicles acceptable for registration in Great Britain due to holding a valid European Certificate of Conformity are in all cases also accepted in Northern Ireland.
- 7.5 Nevertheless, this amendment is necessary to ensure precise alignment of the relevant legislation in Northern Ireland and Great Britain before EU Exit. Without this precise alignment, problems may occur when the type approval legislation is amended in the future.
- 7.6 For the reasons discussed in paragraph 6.4 above, it is necessary to shorten the commencement period for Regulation 4 of the 2019 Regulations so that it comes into force on 29 March, just before EU Exit.
- 7.7 Shortening the commencement period will have no practical impact on vehicle manufacturers or persons involved in registering vehicles, and is the same point at which the erroneous instrument (initially made and registered as S.I. 2019 No. 490) was intended to have come into force.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is not being made under the EU (Withdrawal) Act but does relate to withdrawal from the European Union in the sense that it amends an SI which largely is about the UK's withdrawal from the EU.

## **9. Consolidation**

- 9.1 No consolidation is being undertaken due to the urgency of this measure.

## **10. Consultation outcome**

- 10.1 No consultation has been undertaken on this instrument as it solely shortens the entry into force period of Regulation 4 of the 2019 Regulations, in line with the original intention.
- 10.2 No formal consultation was undertaken on the 2019 Regulations, as the intention was to ensure that, as far as possible, the status quo was maintained, but Department for Transport Ministers and officials have regular engagement with the motor industry. Through specific meetings and workshops on EU Exit, and at long-established stakeholder forums, a number of issues related to the UK's withdrawal from the EU have been addressed, including the preparation and introduction of the 2019 Regulations.

10.3 This instrument has been discussed with Northern Ireland's Department of Infrastructure and they are content.

## **11. Guidance**

11.1 No guidance is being issued on this instrument, as it simply reinstates the original policy from the 2019 Regulations.

11.2 Guidance on the 2019 Regulations, setting out the process for manufacturers applying for Provisional UK type approval, was published by the Vehicle Certification Agency at <https://www.vehicle-certification-agency.gov.uk//eu-exit/eu-exit.asp>

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it solely ensures the application of the 2019 Regulations as originally intended. The impact of that instrument upon business has been assessed by the DfT as being less than £5 million in any year.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 This amending instrument will not affect small businesses as it simply re-instates the original policy from the 2019 Regulations.

## **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is for it to be monitored in the course of normal departmental business.

14.2 The regulation does not include a statutory review clause given that it is simply ensuring that the 2019 Regulations, having been made in the correct form, are amended so as to commence as originally intended.

## **15. Contact**

15.1 Mike Lowe at the Department for Transport, Telephone: 07769 243345, email: [mike.lowe@dft.gov.uk](mailto:mike.lowe@dft.gov.uk) or Adrian Burrows, Telephone 07773 643701, email [adrian.burrows@dft.gov.uk](mailto:adrian.burrows@dft.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Ian Yarnold, Deputy Director for International Vehicle Standards Division at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jesse Norman, Minister of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.