

**EXPLANATORY MEMORANDUM TO**  
**THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT)**  
**REGULATIONS 2020**

**2020 No. 1178**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Department for Transport (“DfT”) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument will ban the use of tyres aged 10-years and older on the front axles of heavy goods vehicles (HGVs), buses, and coaches, and on any axle of a minibus if the tyres are fitted in single configuration i.e. when only one wheel is fitted on each side of the axle (as opposed to some minibuses and heavier vehicles which have two wheels fitted on each side of the axle). It places the same limitations on retreaded tyres if their retreading took place 10-years or more ago. The SI will also introduce a requirement for the “date of manufacture” marking on the tyre to be legible.

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

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

- 3.1 None.

*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)*

- 3.2 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 The territorial extent of this instrument is Great Britain.  
4.2 The territorial application of this instrument is Great Britain.

**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 The Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) (“C&U Regulations”), regulate various aspects of vehicle construction including certain limits/metrics associated with use that are used to determine a vehicle’s roadworthiness at any time. For tyres these include the speed and load carrying capability, tread depth and defects (e.g. cuts, bulges or exposed cords). However, there is currently no requirement as to a tyre’s age.

- 6.2 Introducing a tyre age limit into regulation 27 of the C&U Regulations will enable this metric to be included in the assessment criteria for statutory roadworthiness inspections and strengthen the current guidance issued by the Driver and Vehicle Standards Agency (“DVSA”) to monitor tyre age as part of routine safety inspections.
- 6.3 The measure will apply to HGVs, buses, coaches and minibuses whether used for commercial or non-commercial purposes. It will also, under the relevant provisions of the Road Traffic Act 1988 (c. 52) and the Road Traffic Offenders Act 1988 (c. 53), provide the basis for enforcement action against drivers, owners or operators who continue to use older tyres in breach of the requirement.
- 6.4 A new requirement that the date of manufacture, marked on the side of the tyre in accordance with the United Nations Economic Commission for Europe (“UNECE”) Regulations 30<sup>1</sup>, 54<sup>2</sup>, 108<sup>3</sup> or 109<sup>4</sup>, must remain legible, will support compliance and enforcement.
- 6.5 The instrument will expand the scope of the existing offence under section 41A of the Road Traffic Act 1988, which provides that it is an offence for a person to contravene or fail to comply with a requirement in the C&U Regulations as to tyres, or to use on the road a vehicle or trailer that does not comply with such a requirement. This section would apply to each of the requirements introduced by this instrument.
- 6.6 Where section 41A is contravened, the driver can be issued with a fixed penalty notice or be liable to summary proceedings alongside the vehicle’s owner or operator, who may also be liable for “causing or permitting” the contravention.
- 6.7 In the case of prosecution, the sanctions under the Road Traffic Offenders Act 1988 are fines, driving licence penalty points or, in severe cases, disqualification from driving. The maximum fine is Level 5 for offences for goods vehicle, minibuses or buses, meaning that, in England and Wales, the fines are unlimited whereas in Scotland the fine is capped at a maximum of £5,000.
- 6.8 The amendments made by this instrument to regulation 25 of the C&U Regulations (Tyre Loads and Speed Ratings) will also recognise the use of retreaded tyres complying with UNECE Regulations 108 or 109. All retreaded tyres supplied in the UK must comply with UNECE Regulations 108 & 109 as required by the Motor Vehicle Tyres (Safety) Regulations 1994 (S.I. 1994/3117).

## **7. Policy background**

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

- 7.1 In September 2012, a catastrophic failure of a 19-year-old tyre, fitted to the steered axle of a large coach, led to the loss of three lives. At the inquest, Her Majesty’s Coroner concluded that the tyre failure was as a direct result of its age.
- 7.2 In September 2017, a HGV travelling on the M5 suffered catastrophic tyre failure, crossed the central reservation and collided with oncoming traffic. Five lives were lost in the incident. Her Majesty’s Coroner concluded at the inquest that the crash was a

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<sup>1</sup> <https://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29regs/r030r3e.pdf>

<sup>2</sup> <https://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29regs/2013/R054r3e.pdf>

<sup>3</sup> <https://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29regs/r108e.pdf>

<sup>4</sup> <https://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29regs/r109r1e.pdf>

result of the tyre failure, noting that the tyre was 18 years old and had suffered structural deterioration due to its age.

- 7.3 Since December 2013, DfT and the DVSA have published roadworthiness guidance to advise against the use of tyres aged more than 10 years on buses and coaches, except on a rear axle as part of a twin wheel arrangement. This guidance was extended to include HGVs in November 2018. DfT has been monitoring compliance with this guidance: between June 2017 and September 2018, DVSA inspected nearly 2,700 HGVs, 81,000 buses and coaches, and 3,200 minibuses, and found that only a small minority had at least one tyre aged 10 years or above on the front steering axle (0.15%, 0.06% and 0.28% vehicles respectively). It is assumed that these samples are representative of all HGVs, buses, coaches and minibuses.
- 7.4 In February 2019 the Government announced that it would consult on proposals to prohibit the use of tyres of 10-years of age or older on certain vehicles. DfT published a consultation in June 2019 inviting views on proposals to legislate against the use of tyres aged 10-years or older on HGVs, buses, coaches and minibuses, to improve road safety. The 10-year age limit mirrors DVSA roadworthiness guidance issued in 2013.
- 7.5 DfT funded research, reporting in 2019, was considered together with the evidence of expert testimony and responses to the statutory consultation. It was noted that:
  - 7.5.1 Both fatal collisions that were attributed to the age of the tyre involved first life tyres fitted to the front (steering) axles.
  - 7.5.2 Since neither tyre involved in the fatal collisions was retreaded and retreaded tyres contribute to environmental targets including recycling and CO2 reduction, consideration has been given to the impact of treating retreaded tyres differently to first life products.
  - 7.5.3 Current DVSA guidance is concerned with the use of tyres over 10-years old on the front axle. This has been widely adopted by the commercial fleet who should not have to make major adjustments their maintenance programmes to ensure compliance.
  - 7.5.4 Including minibuses in the new requirement delivers the same levels of confidence to passengers no matter what size of vehicle they travel in. By including both axles in the requirement for minibuses, where those axles are fitted with single wheels, provides additional safeguards without a significant increase in costs.
  - 7.5.5 Applying the measures equally to vehicles used for commercial purposes and those used for non-commercial purposes ensures that the 25% of HGVs and 30% of buses, coaches and minibuses that are not subject to operator licensing and its associated maintenance schedules will be subject to the same safety requirements.
  - 7.5.6 An exemption will be granted to goods vehicles and buses of historical interest, provided they are not used commercially. It is recognised that such vehicles are usually well-maintained but, if used commercially, it is important to balance the granting of any exemptions with the safety of all road users.
  - 7.5.7 DfT research, in combination with expert testimony, supports the introduction of legislation to improve road safety. The research suggests that an age restriction of 10-years or more represents a proportionate balance between the road safety risk and the cost to vehicle owners to comply.
  - 7.5.8 Guidance on the use of older tyres has been available since December 2013 for goods vehicles and, additionally, November 2018 for buses. An implementation period for

the legislation of three months is deemed to be reasonable, balancing the need to legislate while allowing reasonable time for organisations, operators, and owners to make necessary adjustments to their maintenance practice and tyre stock to ensure compliance.

- 7.6 Separate measures would be needed for Northern Ireland. DfT has discussed this with the Department for Infrastructure in Northern Ireland which has advised that it would consider legislative alignment on this important road safety matter following a separate consultation.

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

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 The instrument makes a change to four provisions within the C&U Regulations. A full consolidation of the C&U Regulations is not being carried out.

## **10. Consultation outcome**

- 10.1 DfT published a consultation inviting views on proposals to legislate against the use of tyres aged 10 years or older on HGVs, buses, coaches and minibuses, to improve road safety. The consultation was open for from 23rd July to 1st September 2019. Respondents were also asked to provide evidence to inform our decisions for extending the same requirements to taxis and private hire vehicles. The consultation included a list of specific questions on our proposals for respondents to answer.
- 10.2 A total of 1,134 responses were received using the online survey, email and post. Respondents included businesses, trade associations, public bodies, tyre manufacturers, Members of Parliament, user groups, motorists' clubs, museums and members of the public.<sup>5</sup>
- 10.3 Responses from individuals and from organisations both showed that approximately 60% were in favour and 40% were against the proposal of ban on first life tyres aged 10-years or older. Those that supported the proposal echoed the wording from the consultation, highlighting that the ban is a positive and proportional move towards improving road safety by reducing the risk of serious tyre-related accidents.
- 10.4 81% of respondents (by number) supported the proposal to ban retreaded tyres of any age on steered axles. However, the key industry stakeholders strongly opposed this aspect of the proposal. They cited the lack of evidence to justify that retreaded tyres are less safe than first life tyres, as well as the potential negative impacts on the UK's retreading industry and the environment (given the significant proportion of the first life tyres that are recycled into retreaded products).
- 10.5 Having reviewed the responses, DfT considered to adopt a revised version of the proposal by limiting the 10-year age limit to tyres fitted only to steering axles (instead of all axles) and not to apply an explicit ban on retreaded tyres but instead to apply the same 10-year age limit to retreaded tyres when used on steering axles.

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<sup>5</sup> <https://www.gov.uk/government/consultations/banning-tyres-aged-10-years-and-older/outcome/government-response-to-the-consultation-to-ban-tyres-aged-10-years-or-older>

## **11. Guidance**

- 11.1 The DVSA Guide to Maintaining Roadworthiness will be amended to reflect the new obligation on vehicle owners.
- 11.2 DVSA will revise its inspection manuals that guide vehicle owners and maintenance personnel on the minimum requirements for obtaining a certificate of roadworthiness.

## **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 Despite no significant impact on business, charities, voluntary bodies or the public sector, the Department deemed this policy to be of wider public interest due to the potential road safety benefits. As such, a full Impact Assessment, independently scrutinised by the Regulatory Policy Committee, is submitted with this memorandum and published on the [legislation.gov.uk](http://legislation.gov.uk) website. The Impact Assessment determined that the overall cost of the policy was not significant.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 Small businesses will not be exempted from this road safety measure. The compliance cost is proportionate to the number and type of vehicle that are used. Tyres are a maintenance related commodity and the tyre retail market operates competitively.

## **14. Monitoring & review**

- 14.1 A review clause is not proposed for this instrument as the amendment made by this instrument is likely to have no, or no significant impact upon the activities of small businesses. Baroness Vere of Norbiton, Parliamentary Under Secretary of State, has made the following statement:  
  
“Having had regard to sections 28 to 32 of the Small Business Enterprise and Employment Act 2015 and the Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that it is not appropriate to make provision for review in this instrument because it would be disproportionate taking into account the economic impact of the amendment made by these Regulations. This is because the impact on businesses, individuals and governments was deemed to be low in the impact assessment.”

## **15. Contact**

- 15.1 The ECE Regulations are issued by the United Nations Economic Commission for Europe. Copies of the ECE Regulations referred to in this instrument can be obtained from the UNECE website: <http://www.unece.org/trans/main/wp29/wp29regs.html>. Copies can also be obtained from the Department for Transport upon request: [ivs.enquiries@dft.gov.uk](mailto:ivs.enquiries@dft.gov.uk) or International Vehicle Standards, Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR.
- 15.2 Sumit Pandey at the Department for Transport, can be contacted with any queries regarding the instrument. Telephone: 07971 145288 or email: [Sumit.Pandey@dft.gov.uk](mailto:Sumit.Pandey@dft.gov.uk).

- 15.3 Ian Yarnold, Deputy Director for International Vehicle Standards at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.4 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.