
STATUTORY INSTRUMENTS

2020 No. 818

The Road Vehicles (Approval) Regulations 2020

PART 2

EU type-approval

Appointment of approval authority

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

Market surveillance authority

4. The Secretary of State is the market surveillance authority for the purposes of—
- (a) these Regulations and the Type Approval Regulation, and
 - (b) where applied by the Type Approval 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(1).

Requirement to supply documentation or additional information: failure to comply

5. Where a manufacturer who makes an application for type approval fails to comply with a requirement to supply documentation or additional information under the second subparagraph of paragraph 4 of Article 25 of the Type Approval Regulation, the approval authority may treat the application as having been withdrawn by the manufacturer.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 26 and 29 to 31, or
- (b) Article 39,

of the Type Approval Regulation have not been complied with.

(2) The requirements of Article 30 of the Type Approval Regulation are not complied with if the tests required by that Article demonstrate that there is non-compliance with the technical requirements mentioned in paragraph 1 of that Article.

(3) The requirements of Article 31 of the Type Approval 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 national small series vehicle type approval in accordance with Article 42 of the Type Approval 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 36 or Article 37 of the Type Approval Regulation, and
- (c) that the data in certificates of conformity issued by the holder are correct.

Review of decisions

8.—(1) All decisions taken pursuant to the Type Approval Regulation and all decisions refusing or withdrawing type approval, refusing registration, prohibiting or restricting the placing on the market, registration or entry into service of a vehicle or requiring withdrawal of a vehicle from the market must be given by notice in writing (“a relevant notice”) and state—

- (a) in detail the reasons on which they are based,
- (b) the remedies available to the party concerned under the laws in force in the United Kingdom, and
- (c) the time limits allowed for the exercise of such remedies.

(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

- 9.**—(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 8(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

- 10.**—(1) If the holder of an approval which has been withdrawn or suspended pursuant to the Type Approval 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 38 of the Type Approval 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.

Service

- 11.**—(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 Type Approval 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)⁽²⁾ 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 Type Approval 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 Type Approval 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).

Provision of testing stations

12. 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 Type Approval Regulation and may provide and maintain apparatus for carrying out such examinations.

Provision of technical information: loss or damage

13.—(1) Where a duty is imposed on a manufacturer by Chapter XIII (provision of technical information) or Chapter XIV (access to vehicle OBD information and vehicle repair and maintenance information) of the Type Approval Regulation, 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.

Defeat systems

14.—(1) A person who is a manufacturer commits an offence if a motor vehicle manufactured by that person—

(2) 1978 c.30.

- (a) is placed on the market or registered in the United Kingdom, and
 - (b) that motor vehicle is fitted with a defeat system which is not permitted.
- (2) A separate offence under paragraph (1) is committed in respect of each such motor vehicle placed on the market or registered.
- (3) A defeat system is not permitted unless—
- (a) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies, the fitting and operation of the defeat system is explained in the extended documentation package submitted by the manufacturer to the approval authority (as defined in Article 3(36) of the Type Approval Regulation) when applying for emissions type approval for that vehicle, or
 - (b) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies—
 - (i) its use falls within one of the exceptions listed in Article 5(2)(a) to (c) of that Regulation, and
 - (ii) in respect of a motor vehicle submitted for emissions type approval after 16th May 2016, the fitting and operation of the defeat system is explained in the documentation package submitted by the manufacturer to the approval authority (as defined in Article 3(36) of the Type Approval Regulation) when applying for emissions type approval for that vehicle.
- (4) Where, following examination of motor vehicles associated with a single EU vehicle type approval, the approval authority is satisfied that two or more of those motor vehicles—
- (a) are vehicles for which an EU certificate of conformity has been issued in respect of that approval, and
 - (b) are fitted with a defeat system which is not permitted,

each motor vehicle associated with that single EU vehicle type approval is to be taken to be similarly fitted with a defeat system which is not permitted unless proved otherwise by the manufacturer.

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

(6) A person who breaches a prohibition in paragraphs 9(1), (2) or 10(10) of Schedule 4 commits an offence.

(7) In this regulation—

“Commission Regulation (EC) No 692/2008” means Commission Regulation (EC) No 692/2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information(3);

“Commission Regulation (EC) No 582/2011” means Commission Regulation (EC) No 582/2011 implementing and amending Regulation (EC) No 595/2009 of the European Parliament and of the Council with respect to emissions from heavy duty vehicles (Euro VI) and amending Annexes I and III to Directive 2007/46/EC of the European Parliament and of the Council(4);

“Commission Regulation (EU) 2017/1151” means Commission Regulation (EU) 2017/1151 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information(5);

(3) OJ No. L 199, 28.7.2008, p. 1.

(4) OJ No. L 167, 25.6.2011, p. 1.

(5) OJ No. L 175, 7.7.2017, p. 1.

“defeat system” means—

- (a) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies—
- (i) where the engine system or engine family meets the conditions specified in Article 6(1a) of Commission Regulation (EC) No 582/2011, a “defeat strategy” as defined in paragraph 2 of UNECE Regulation 49;
 - (ii) in all other cases, a “defeat strategy” as defined in Article 3(8) of Regulation (EC) 595/2009,

at the time of applying for emissions type approval for that vehicle;

- (b) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies—
- (i) where, pursuant to Article 6(1) of Commission Regulation (EC) No 692/2008, the motor vehicle meets the requirements of Regulation (EC) 715/2007 by virtue of compliance with UNECE Regulation 83, a “defeat device” as defined in paragraph 2 of that UNECE Regulation;
 - (ii) in all other cases, a “defeat device” as defined in Article 3(10) of Regulation (EC) 715/2007,

at the time of applying for emissions type approval for that vehicle;

“emissions type approval” means EC type approval in accordance with Regulation (EC) 715/2007 or Regulation (EC) 595/2009 (as appropriate) in respect of tailpipe emissions and evaporative emissions for a motor vehicle;

“extended documentation package” means—

- (a) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies, the extended documentation package mentioned in—
- (i) Article 5(11) of Commission Regulation (EC) No 692/2008⁽⁶⁾; or
 - (ii) Article 5(11) of Commission Regulation (EU) 2017/1151;
- (b) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies, the extended documentation package specified in Article 5(3) of, and Section 8 of Annex I to, Commission Regulation (EC) No 582/2011;

“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 1994 Act;

“Regulation (EC) 715/2007” means Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6)⁽⁷⁾;

“Regulation (EC) 595/2009” means Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI)⁽⁸⁾.

⁽⁶⁾ Paragraph 11 was inserted by Commission Regulation (EU) 2016/646 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ No. L 109, 26.4.2016, p. 1).

⁽⁷⁾ OJ No. L 171, 29.6.2007, p. 1.

⁽⁸⁾ OJ No. L 188, 18.7.2009, p. 1.