

Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (Text with EEA relevance)

## CHAPTER VII

### NEW TECHNOLOGIES OR NEW CONCEPTS

#### *Article 39*

#### **Exemptions for new technologies or new concepts**

1 The manufacturer may apply for an EU type-approval in respect of a type of vehicle, system, component or separate technical unit that incorporates new technologies or new concepts that are incompatible with one or more regulatory acts listed in Annex II.

2 The approval authority shall grant the EU type-approval referred to in paragraph 1 where all of the following conditions are met:

- a the application for the EU type-approval states the reasons why the new technologies or new concepts make the vehicles, systems, components or separate technical units incompatible with one or more regulatory acts listed in Annex II;
- b the application for the EU type-approval describes the safety and environmental implications of the new technology or new concept and the measures taken in order to ensure at least an equivalent level of safety and environmental protection to that provided by the requirements in respect of which an exemption is sought;
- c test descriptions and results are presented proving that the condition in point (b) is met.

3 The granting of EU type-approvals exempting new technologies or new concepts shall be subject to the authorisation by the Commission.

The Commission shall adopt implementing acts to decide whether to grant the authorisation referred to in the first subparagraph of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

4 Pending adoption of implementing acts referred to in paragraph 3, the approval authority may grant a provisional EU type-approval, valid only in the territory of the Member State of that approval authority, in respect of a type of vehicle covered by the exemption sought. The approval authority shall inform the Commission and the other Member States thereof without delay by means of a file containing the information referred to in paragraph 2.

The provisional nature and the limited territorial validity of the EU type-approval shall be apparent from the heading of the EU type-approval certificate and the heading of the certificate of conformity.

5 Approval authorities of other Member States may accept the provisional EU type-approval referred to in paragraph 4 within their territory, provided they inform the approval authority that granted the provisional EU type-approval of their acceptance in writing.

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Regulation (EU) 2018/858 of the European Parliament and of the Council, CHAPTER VII is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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6 Where appropriate, the implementing acts referred to in paragraph 3 shall specify whether authorisations are subject to any restrictions, in particular with regard to the maximum number of vehicles covered. In all cases, the EU type-approval shall be valid for at least 36 months.

7 Where the Commission adopts implementing acts referred to in paragraph 3 to refuse to grant the authorisations, the approval authority shall immediately inform the holder of the provisional EU type-approval referred to in paragraph 4 that the provisional EU type-approval shall be revoked six months after the date of the implementing act.

However, vehicles that have been manufactured in conformity with the provisional EU type-approval before it ceased to be valid may be placed on the market, be registered or enter into service in any Member State that has accepted the provisional EU type-approval in accordance with paragraph 5.

#### *Article 40*

#### **Subsequent adaptation of regulatory acts**

1 Where the Commission has authorised the granting of an EU type-approval in accordance with Article 39, it shall immediately take the necessary steps to adapt the regulatory acts concerned to the latest technological developments.

Where the exemption under Article 39 relates to a UN Regulation, the Commission shall make proposals to amend the relevant UN Regulation in accordance with the procedure applicable under the Revised 1958 Agreement.

2 Once the relevant regulatory acts have been amended, any restriction in the implementing acts referred to in Article 39(3) shall be lifted.

3 Where the necessary steps to adapt the regulatory acts referred to in paragraph 1 of this Article have not been taken, the Commission may, at the request of the Member State that granted the provisional EU type-approval, adopt implementing acts to decide whether to grant the authorisation of the extension of the validity of the provisional EU type-approval. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

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**Changes to legislation:**

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