

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 XI **U.K.**

SAFEGUARD CLAUSES

Article 51 **U.K.**

National evaluation regarding vehicles, systems, components and separate technical units suspected of presenting a serious risk or non-compliance

Where, based on their own market surveillance activities, or based on information provided by an approval authority or a manufacturer or based on complaints, the market surveillance authorities of one Member State have sufficient reasons to believe that a vehicle, system, component or separate technical unit presents a serious risk to the health or safety of persons or to other aspects of the protection of public interests covered by this Regulation or does not comply with the requirements laid down in this Regulation, they shall evaluate the vehicle, system, component or separate technical unit concerned with respect to the relevant requirements laid down in this Regulation. The relevant economic operators and the relevant approval authorities shall cooperate fully with the market surveillance authorities, which shall include forwarding the results of all relevant checks or tests performed in accordance with Article 31.

Article 20 of Regulation (EC) No 765/2008 shall apply to the risk assessment of the vehicle, system, component or separate technical unit concerned.

Article 52 **U.K.**

National procedures for dealing with vehicles, systems, components and separate technical units presenting a serious risk or non-compliance

1 Where, after having performed the evaluation pursuant to Article 51, the market surveillance authority of one Member State finds that a vehicle, system, component or separate technical unit presents a serious risk to the health or safety of persons or to other aspects of the protection of public interests covered by this Regulation, it shall require without delay that the relevant economic operator take all appropriate corrective measures without delay to ensure that the vehicle, system, component or separate technical unit concerned, when placed on the market, registered or entered into service, no longer presents that risk.

2 Where, after having performed the evaluation pursuant to Article 51, the market surveillance authority of one Member State finds that a vehicle, system, component or separate technical unit does not comply with this Regulation, but does not present a serious risk as referred to in paragraph 1 of this Article, it shall require without delay that the relevant economic operator take all appropriate corrective measures within a reasonable period to bring a vehicle, system, component or separate technical unit into compliance. That period shall be proportionate to the seriousness of non-compliance to ensure that the vehicle, system, component or separate

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technical unit concerned is compliant when it is placed on the market, is registered, or enters into service.

Economic operators shall, in accordance with the obligations set out in Articles 13 to 21, ensure that all appropriate corrective measures are taken in respect of all concerned vehicles, systems, components or separate technical units that they have placed on the market, registered or entered into service in the Union.

3 Where economic operators do not take adequate corrective measures within the relevant period referred to in paragraph 1 or 2, or where the risk requires rapid action, the national authorities shall take all appropriate provisional restrictive measures to prohibit or restrict the making available on the market, the registration or the entry into service of the concerned vehicles, systems, components or separate technical units, on their national market, or to withdraw them from that market or to recall them.

Article 21 of Regulation (EC) No 765/2008 shall apply to the restrictive measures referred to in the first subparagraph of this paragraph.

4 The Commission may adopt implementing acts laying down a classification of the seriousness of the non-compliance and the appropriate measures to be taken by national authorities to ensure the uniform application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

Article 53 **U.K.**

Corrective and restrictive measures at Union level

1 The Member State taking corrective or restrictive measures in accordance with Article 52 shall notify the Commission and the other Member States without delay, by means of ICSMS. It shall also inform without delay the approval authority that granted the approval about its findings.

The information provided shall include all available details, in particular the data necessary for the identification of the concerned vehicle, system, component or separate technical unit, its origin, the nature of the alleged non-compliance and the risk involved, the nature and duration of the national corrective and restrictive measures taken, and the arguments put forward by the relevant economic operator.

2 The Member State that takes the corrective or restrictive measure shall also indicate whether the risk or the non-compliance is due to the following:

- a the failure of the vehicle, system, component or separate technical unit to meet requirements relating to the health or safety of persons, to the protection of the environment or to other aspects of the protection of public interests covered by this Regulation; or
- b shortcomings in the relevant regulatory acts listed in Annex II.

3 Member States other than the Member State that takes corrective or restrictive measures shall inform within one month after the notification referred to in paragraph 1, the Commission and the other Member States of any corrective or restrictive measures they have adopted and of any additional information at their disposal relating to the non-compliance and the risk of the vehicle, system, component or separate technical unit concerned, as well as, in the event of disagreement with the notified national measure, of their objections.

4 Where, within one month after the notification referred to in paragraph 1, no objection has been raised by either another Member State or the Commission in respect of a notified

national measure, that measure shall be deemed to be justified. The other Member States shall ensure that similar corrective or restrictive measures are taken without delay within their territories in respect of the vehicle, system, component or separate technical unit concerned.

5 Where, within one month after the notification referred to in paragraph 1, another Member State or the Commission raises an objection in respect of a notified national measure, or where the Commission considers that a notified national measure is contrary to Union law, the Commission shall consult the Member States concerned and the relevant economic operator or operators without delay.

On the basis of the consultation referred to in the first subparagraph of this paragraph, the Commission shall adopt implementing acts to decide on harmonised corrective or restrictive measures at Union level. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

The Commission shall immediately communicate the decision referred to in the second subparagraph to the relevant economic operator or operators. Member States shall implement such acts without delay and shall inform the Commission accordingly.

Where the Commission considers that a notified national measure is unjustified, the Member State concerned shall withdraw or adapt the measure, in accordance with the Commission decision referred to in the second subparagraph.

6 Where following tests and inspections carried out by the Commission in accordance with Article 9, the Commission establishes that a corrective or restrictive measure is necessary at Union level, it shall without delay consult the Member States concerned and the relevant economic operator or operators.

On the basis of consultation referred to in the first subparagraph of this paragraph, the Commission shall adopt implementing acts to decide on corrective or restrictive measures at Union level. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

The Commission shall immediately communicate the decision referred to in the second subparagraph to the relevant economic operator or operators. Member States shall implement such acts without delay and shall inform the Commission accordingly.

7 Where the risk or non-compliance is attributed to shortcomings in regulatory acts listed in Annex II, the Commission shall propose appropriate measures as follows:

- a where legal acts of the Union are concerned, the Commission shall propose the necessary amendments to the acts concerned;
- b where UN Regulations are concerned, the Commission shall propose the necessary draft amendments to the relevant UN Regulations in accordance with the procedure applicable under the Revised 1958 Agreement.

8 Where a corrective measure is considered to be justified in accordance with this Article or is subject to the implementing acts as referred to in paragraph 5 or 6, that measure shall be available free of charge to holders of registrations for the affected vehicles. Where repairs have been carried out at the registration holder's expense before the adoption of the corrective measure, the manufacturer shall reimburse the cost of such repairs up to the cost of the repairs required by that corrective measure.

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Article 54 **U.K.**

Non-compliant EU type-approval

1 Where an approval authority finds that a type-approval that has been granted does not comply with this Regulation, it shall refuse to recognise that approval.

2 The approval authority shall notify its refusal to the approval authority that granted the EU type-approval, to the approval authorities of the other Member States, and to the Commission. Where within one month after the notification, the non-compliance of the type-approval is confirmed by the approval authority that granted the EU type-approval, that approval authority shall withdraw the type-approval.

3 Where, within one month after the notification referred to in paragraph 2, an objection has been raised by the approval authority that granted the EU type-approval, the Commission shall consult the Member States without delay, in particular the approval authority that granted the type-approval and the relevant economic operator.

4 On the basis of the consultation referred to in paragraph 3 of this Article, the Commission shall adopt implementing acts to decide if the refusal of recognition of EU type-approval referred to in paragraph 1 of this Article is justified. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

The Commission shall immediately communicate the decision referred to in the first subparagraph to the relevant economic operators. The Member States shall implement such acts without delay and shall inform the Commission accordingly.

5 Where, following tests and inspections carried out by the Commission in accordance with Article 9, the Commission establishes that a type-approval that has been granted is not compliant with this Regulation, it shall consult the Member States without delay, in particular the approval authority that granted the type-approval and the relevant economic operator.

On the basis of consultations referred to in the first subparagraph of this paragraph the Commission shall adopt an implementing act to decide on the refusal of the recognition of type-approval referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

6 Articles 51, 52 and 53 apply to vehicles, systems, components and separate technical units that are the subject of a non-compliant type-approval and that are already made available on the market.

Article 55 **U.K.**

Placing on the market and entry into service of parts or equipment that may pose a serious risk to the correct functioning of essential systems

1 Parts or equipment that may pose a serious risk to the correct functioning of systems that are essential for the safety of the vehicle or for its environmental performance shall not be placed on the market, shall not enter into service, and shall be prohibited, unless they have been authorised by an approval authority in accordance with Article 56.

2 Such authorisations shall only apply to the limited number of parts or equipment, that are included in the list referred to in paragraph 4.

3 The Commission is empowered to adopt delegated acts in accordance with Article 82, supplementing this Regulation by laying down the requirements for the authorisation of the parts and equipment referred to in paragraph 1 of this Article.

Those requirements may be based on the regulatory acts listed in Annex II or may consist of a comparison of the environmental or safety performance of the parts or equipment with the environmental or safety performance of the original parts or equipment, as appropriate. In either case, the requirements shall ensure that the parts or equipment do not impair the functioning of the systems that are essential for the safety of the vehicle or for its environmental performance.

4 The Commission is empowered to adopt delegated acts in accordance with Article 82, amending Annex VI to take account of technical and regulatory developments by laying down and updating the list of parts or equipment on the basis of an evaluation of the following:

- a the extent to which there exists a serious risk to the safety or environmental performance of vehicles that are fitted with the parts or equipment in question;
- b the potential effect on consumers and aftermarket manufacturers of a possible authorisation of the parts or equipment under Article 56(1).

5 Paragraph 1 shall not apply to original parts or equipment or to parts or equipment belonging to a system that has been type-approved in accordance with the regulatory acts listed in Annex II, except where the type-approval relates to aspects other than the serious risk referred to in paragraph 1.

For the purposes of this Article, original parts or equipment means parts or equipment that are manufactured according to the specifications and production standards provided by the vehicle manufacturer for the assembly of the vehicle in question.

6 Paragraph 1 of this Article shall not apply to parts or equipment that are exclusively produced for racing vehicles. Parts or equipment listed in Annex VI that are used both in racing and on the road shall only be made available on the market for vehicles intended for use on public roads, if they comply with the requirements laid down in the delegated acts referred to in paragraph 3 of this Article and have been authorised by the Commission. The Commission shall adopt implementing acts to decide whether to grant those authorisations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

Article 56 **U.K.**

Related requirements for parts or equipment that may pose a serious risk to the correct functioning of essential systems

1 A manufacturer of parts or equipment may apply for the authorisation referred to in Article 55(1) by submitting to the approval authority an application accompanied by a test report that is drafted by a technical service and that certifies that the parts or equipment for which authorisation is sought comply with the requirements referred to in Article 55(3). Such manufacturer may submit only one application for each type of part or equipment and to one approval authority only.

2 The application for the authorisation shall include details of the manufacturer of the parts or equipment, the type, the identification and part numbers of the parts or equipment, the vehicle manufacturer's name, the type of vehicle and, where appropriate, the year of construction and any other information permitting the identification of the vehicle to which the parts or equipment are to be fitted.

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The approval authority shall authorise the placing on the market and the entering into service of the parts or equipment where it finds, taking into account the test report referred to in paragraph 1 of this Article and other evidence, that the parts or equipment in question comply with the requirements referred to in Article 55(3).

The approval authority shall issue to the manufacturer an authorisation certificate without delay.

The Commission shall adopt implementing acts laying down the template and the numbering system for the authorisation certificate referred to in the third subparagraph of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

3 The manufacturer shall inform without delay the approval authority that issued the authorisation of any change affecting the conditions under which the authorisation has been issued. That approval authority shall decide whether the authorisation has to be reviewed or reissued and whether further tests are necessary.

The manufacturer shall ensure that the parts or equipment are produced and continue to be produced under the conditions under which the authorisation has been issued.

4 Before issuing any authorisation, the approval authority shall verify the existence of arrangements and procedures for ensuring effective control of the conformity of production.

Where the approval authority finds that the conditions for issuing the authorisation are no longer fulfilled, it shall request the manufacturer to take the necessary measures to ensure that the parts or equipment are brought into conformity. Where necessary, it shall withdraw the authorisation.

5 Upon request of a national authority of another Member State, the approval authority that has issued the authorisation shall, within one month of the receipt of that request, send to the former a copy of the issued authorisation certificate together with its attachments by means of a common secure electronic exchange system. The copy may also take the form of a secure electronic file.

6 An approval authority that disagrees with the authorisation issued by another Member State shall bring the reasons for its disagreement to the attention of the Commission. The Commission shall take the appropriate measures in order to resolve the disagreement. *Inter alia*, the Commission may, where necessary and after having consulted the relevant approval authorities, adopt implementing acts requiring the withdrawal of the authorisation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 83(2).

7 Until the list referred to in Article 55(4) has been established, Member States may maintain national provisions regarding parts or equipment that may affect the correct functioning of systems essential for the safety of the vehicle or its environmental performance.

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