

1995 No. 94

EUROPEAN COMMUNITIES

ROAD TRAFFIC AND VEHICLES

**Motor Vehicles (Construction and Use) (Amendment)
Regulations (Northern Ireland) 1995**

Made 14th March 1995

Coming into operation 1st May 1995

The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation of the construction or equipment of vehicles and of components of vehicles, in exercise of the powers conferred on it by that section and by Articles 28(1) and 218(1) of the Road Traffic (Northern Ireland) Order 1981(c) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 1st May 1995.

Interpretation

2.—(1) In these Regulations “the principal Regulations” means the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989(d).

(2) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to a measure of the Northern Ireland Assembly.

Amendments relating to motor-cycle noise and silencers

3. The principal Regulations shall be amended as follows—

(1) In regulation 3(4) (application and exemptions)—

(a) in items 1, 2 and 3 of the Table, for “, 53 and 59(3) and (4)” there shall be substituted “and 53”;

(b) in item 4 of the Table, omit “, 59(3) and (4)”; and

(a) S.I. 1972/1811

(b) 1972 c. 68

(c) S.I. 1981/154 (N.I. 1); see Article 2(2) for the definition of “Department”

(d) S.R. 1989 No. 299; relevant amending Regulations are S.R. 1991 No. 147, S.R. 1991 No. 420, S.R. 1992 No. 509 and S.R. 1994 No. 452

(e) 1954 c. 33 (N.I.).

(c) in item 5 of the Table, omit the words “except regulations 59(3) and (4)”.

(2) For the heading preceding regulation 56 there shall be substituted “Silencers — general”.

(3) In regulation 56(2) (silencers) for the words “shall not be altered” there shall be substituted “shall not after the date of manufacture be altered”.

(4) In regulation 57(6) (noise limits — general) for the words “regulations 59(1A)(a)(a) and 59(2)(a)” there shall be substituted the words “regulation 58(2)(a) and Schedule 6A”.

(5) For regulation 59 (noise limits — motor-cycles) there shall be substituted the provisions set out in Schedule 1 to these Regulations.

(6) In regulation 60(2) (noise limits — vehicles not subject to regulations 57 to 59, first used on or after 1st April 1970), in sub-paragraph (d), for the words “specified in regulation 59(1A) and (2A)” there shall be substituted “the requirements of item 1 or 2 of the Table in Part I of Schedule 8A”.

(7) In regulation 61 (exception to regulations 57 to 60), for “59(1A) and (2A)” there shall be substituted “59, 59A and 59B”.

(8) In Table I of Schedule 1—

(a) in column 1, for “56A”(b) there shall be substituted “56B”; and

(b) after item 56(c), there shall be inserted the following item—

| | | | | | | |
|------|--------|---------|---------|-----------------|------------|-------|
| “56A | 89/325 | 13.3.89 | L98, | The permissible | 78/1015 as | — —”. |
| | | | 11.4.89 | sound level and | amended by | |
| | | | p. 1 | exhaust systems | 87/56 | |
| | | | | of motorcycles | | |

(9) After Schedule 6 there shall be inserted the Schedule set out in Schedule 2 to these Regulations.

Sealed with the Official Seal of the Department of the Environment on 14th March 1995.

(L.S.)

Trevor Pearson

Assistant Secretary

(a) Regulation 59(1A) was inserted by S.R. 1991 No. 147, reg. 2(7)

(b) Item 56A was inserted by S.R. 1992 No. 509, reg. 11(1)

(c) Item 56 was inserted by S.R. 1991 No. 420, reg. 8(1)

Provisions replacing regulation 59

“Noise limits — construction requirements relating to motor-cycles

59.—(1) Subject to regulation 61, this regulation applies to every motor vehicle first used on or after 1st April 1983 which is—

- (a) a moped; or
- (b) a two-wheeled motor-cycle, whether or not with side car attached, which is not a moped.

(2) A vehicle to which this regulation applies shall be so constructed that it meets—

- (a) if it is first used before 1st April 1991, the requirements of item 1 or 2 of the Table in Part I of Schedule 6A;
- (b) if it is first used on or after that date, the requirements of item 2 of that Table.

(3) Instead of complying with paragraph (2), a vehicle first used before 1st April 1991 may comply at the time of its first use with Community Directive 78/1015, 87/56 or 89/235(a).

(4) Instead of complying with paragraph (2) a vehicle first used on or after 1st April 1991 may comply at the time of its first use with Community Directive 87/56 or 89/235.

(5) In this regulation “moped” has the meaning given to it in paragraph 7 of Schedule 8.

Exhaust systems — motor-cycles

59A.—(1) Any original silencer forming part of the exhaust system of a vehicle to which regulation 59 applies, being a vehicle first used before 1st February 1996, shall be so constructed that—

- (a) the vehicle meets the requirements specified in paragraph 3 (other than sub-paragraphs 3.2 and 3.3) of Annex I to Community Directive 78/1015 and be marked in accordance with sub-paragraph 3.3 of that Annex; or
- (b) the vehicle meets the requirements specified in paragraph 3 (other than sub-paragraphs 3.2 and 3.3) of Annex I to Community Directive 89/235 and be marked in accordance with sub-paragraph 3.3 of that Annex.

(2) Any original silencer forming part of the exhaust system of a vehicle to which regulation 59 applies, being a vehicle first used on or after 1st February 1996, shall be so constructed that the vehicle meets the requirements specified in paragraph 3 (other than sub-paragraphs 3.2 and 3.3) of Annex I to Community Directive 89/235 and be marked in accordance with sub-paragraph 3.3 of that Annex.

(3) A vehicle fitted with an original silencer may,—

- (a) if the vehicle is first used before 1st February 1996, instead of complying with paragraph (1), comply at the time of first use with Community Directive 78/105, 87/56 or 89/235; or

(a) “Community Directive” is defined in regulation 2(2) and table 1 of Schedule 1 to the principal Regulations. Relevant amendments to that Schedule are made by regulation 3(8) of these Regulations

- (b) if the vehicle is first used on or after that date, instead of complying with paragraph (2), comply at the time of first use with Community Directive 89/235.
- (4) Where any replacement silencer forms part of the exhaust system of a vehicle to which regulation 59 applies, being a vehicle first used on or after 1st January 1985, the first requirement or the second requirement must be met in respect of the silencer.
- (5) In order for the first requirement to be met in respect of a silencer forming part of the exhaust system of a vehicle (in this paragraph referred to as "the vehicle in question"),—
- (a) if the vehicle in question is first used before 1st April 1991, the silencer must be so constructed that, were it to be fitted to an unused vehicle of the same model as the vehicle in question, the unused vehicle would meet—
- (i) the requirements of item 1 or 3 of the Table in Schedule 6A, and
 - (ii) the requirements specified in paragraph 3 (other than sub-paragraphs 3.2 and 3.3) of Annex I to Community Directive 78/1015 or 89/235; and the silencer must be marked in accordance with sub-paragraph 3.3 of that Annex;
- (b) if the vehicle in question is first used on or after 1st April 1991, but before 1st February 1996, the silencer must be so constructed that, were it to be fitted to an unused vehicle of the same model as the vehicle in question, the unused vehicle would meet—
- (i) the requirements of item 3 of the Table in Part I of Schedule 6A; and
 - (ii) the requirements specified in paragraph 3 (other than sub-paragraphs 3.2 and 3.3) of Annex I to Community Directive 78/1015 or 89/235; and the silencer must be marked in accordance with sub-paragraph 3.3 of that Annex;
- (c) if the vehicle in question is first used on or after 1st February 1996, the silencer must be so constructed that, were it to be fitted to an unused vehicle of the same model as the vehicle in question, the unused vehicle would meet—
- (i) the requirements of item 3 of the Table in Part I of Schedule 6A; and
 - (ii) the requirements specified in paragraph 3 (other than sub-paragraphs 3.2 and 3.3) of Annex I to Community Directive 89/235; and the silencer must be marked in accordance with sub-paragraph 3.3 of that Annex.
- (6) In order for the second requirement to be met in respect of a silencer forming part of the exhaust system of a vehicle (in Part II of Schedule 6A referred to as "the vehicle in question"),—
- (a) if the vehicle is first used before 1st April 1991, the silencer must meet the requirements of paragraph 1, 2 or 3 of Part II of Schedule 6A; or
- (b) if the vehicle is first used on or after that date, the silencer must meet the requirements of paragraph 3 of Part II of Schedule 6A.
- (7) Any requirements specified in paragraph (5) or in Part II of Schedule 6A relating to the silencer as fitted to an unused vehicle of the same model as the vehicle in question (as defined in that paragraph or in paragraph (6) for the purposes of that Part, as the case may be) shall be deemed to be met if they are met by the silencer as fitted to the vehicle in question at the time that it is first fitted.

(8) For the purposes of this regulation, Community Directive 89/235 shall have effect as if—

(a) in Annex I, for sub-paragraph 3.4.1, there were substituted—

“3.4.1. After removal of the fibrous material, the vehicle must meet the relevant requirements.”; and

for sub-paragraph 3.4.3, there were substituted—

“3.4.3. After the exhaust system has been put into a normal state for road use by one of the following conditioning methods, the vehicle must meet the relevant requirements.”;

(b) references in Annex I as so modified to a vehicle meeting the relevant requirements were,—

(i) in relation to an original silencer, references to a vehicle meeting the requirements of item 2 of the table in Part I of Schedule 6A; and

(ii) in relation to a replacement silencer, references to a vehicle meeting the requirements of item 3 of that Table; and

(c) in Annex II there were omitted sub-paragraphs 3.1.2, 3.4 and 3.5 and in sub-paragraph 3.2—

(i) the words “and the name referred to in 3.1.2”, and

(ii) the words after “legible”.

(9) In relation to a replacement silencer which is—

(a) fitted to a vehicle before 1st February 1997; and

(b) clearly and indelibly marked with the name or trade mark of the manufacturer of the silencer and with that manufacturer’s part number relating to it,

paragraphs (5) and (6) of this regulation and Parts II and III of Schedule 6A shall have effect as if they contained no reference to a silencer being marked.

(10) For the purposes of this regulation, a silencer forming part of the exhaust system of a vehicle shall not be regarded as being marked in accordance with sub-paragraph 3.3 of Annex I to Community Directive 78/1015 or 89/235, paragraph (9) of this regulation or any paragraph of Part II of Schedule 6A if the marking is so obscured by any part of the vehicle that it cannot easily be read.

(11) Until 1st February 1996, for the purposes of paragraph (6), a vehicle first used on or after 1st April 1991 shall be treated as a vehicle first used before 1st April 1991.

(12) Part III of Schedule 6A shall have effect for the purpose of exempting certain silencers from the provisions of paragraph (4).

(13) No person shall use a motor-cycle on a road or cause or permit such a vehicle to be so used if any part of the exhaust system has been indelibly marked by the manufacturer of that part with the words “NOT FOR ROAD USE” or words to that effect.

(14) In this regulation—

“original silencer”, in relation to a vehicle, means a silencer which was fitted to the vehicle when it was manufactured;

“replacement silencer”, in relation to a vehicle, means a silencer fitted to the vehicle, not being an original silencer; and

“trade mark” has the same meaning as in the Trade Marks Act 1938(a).

Noise limits — maintenance requirements relating to motor-cycles

59B.—(1) No person shall use or cause or permit to be used on a road a motor-cycle to which regulation 59 applies if the three conditions specified below are all fulfilled.

(2) The first condition is fulfilled if the vehicle does not meet the noise limit requirements.

(3) The second condition is fulfilled if—

- (a) any part of the vehicle is not in good and efficient working order, or
- (b) the vehicle has been altered.

(4) The third condition is fulfilled if the noise made by the vehicle would have been materially less (so far as applicable)—

- (a) were all parts of the vehicle in good and efficient working order, or
- (b) had the vehicle not been altered.

(5) For the purposes of this regulation, a vehicle meets the noise limit requirements if—

- (a) in the case of a vehicle first used before 1st April 1991 and not fitted with a replacement silencer, it meets the requirements of item 1 or 2 of the Table in Part I of Schedule 6A;
 - (b) in the case of a vehicle first used before 1st April 1991 and fitted with a replacement silencer, it meets the requirements of item 1 or 3 of that Table;
 - (c) in the case of a vehicle first used on or after 1st April 1991 and not fitted with a replacement silencer, it meets the requirements of item 2 of that Table;
 - (d) in the case of a vehicle first used on or after 1st April 1991 and fitted with a replacement silencer, it meets the requirements of item 3 of that Table.
- (6) In this regulation, “replacement silencer” has the same meaning as in regulation 59A.”.

Motor-cycle noise and motor-cycle silencers

PART I

1.—(1) For the purposes of these Regulations a vehicle meets the requirements of an item in the Table below if its sound level does not exceed by more than 1dB(A) the relevant limit specified in column 2 in that item, when measured under the conditions specified in column 3 in that item by the method specified in column 4 in that item using the apparatus prescribed in regulation 57(6).

(2) In this Part of the Schedule, "moped" has the same meaning as in regulation 59.

TABLE

| 1 | 2 | | 3 | 4 |
|-------------|------------------------------|---|---|--|
| | <i>Limits of sound level</i> | | | |
| <i>Item</i> | <i>Mopeds</i> | <i>Vehicles other than mopeds</i> | <i>Conditions of measurement</i> | <i>Methods of measurement</i> |
| 1 | 73dB(A) | Limit determined in accordance with paragraph 2.1.1 of Annex I to Community Directive 78/1015 by reference to the cubic capacity of the vehicle | Conditions specified in paragraph 2.1.3 to Annex I to Community Directive 78/1015 | Methods specified in paragraph 2.1.4 of Annex I to Community Directive 78/1015 |
| 2 | 73dB(A) | First stage limit determined in accordance with paragraph 2.1.1 of Annex I to Community Directive 87/56 by reference to the cubic capacity of the vehicle | Conditions specified in paragraph 2.1.3 to Annex I to Community Directive 87/56 | Methods specified in paragraph 2.1.4 of Annex I to Community Directive 87/56 |

| 1 | 2 | 3 | 4 |
|------------------------------|---------------|---|----------------------------------|
| <i>Limits of sound level</i> | | | |
| <i>Item</i> | <i>Mopeds</i> | <i>Vehicles other than mopeds</i> | <i>Conditions of measurement</i> |
| <i>Item</i> | <i>Mopeds</i> | <i>Vehicles other than mopeds</i> | <i>Methods of measurement</i> |
| 3 | 74dB(A) | The limit specified in item 2 plus 1dB(A) | As in item 2 |

PART II

1. The requirements of this paragraph are that the silencer is—
 - (a) so constructed that—
 - (i) it meets the requirements of paragraphs 3 and 4 of British Standard BS AU 193:1983;
 - (ii) were it to be fitted to an unused vehicle of the same model as the vehicle in question, the unused vehicle would meet the requirements of paragraph 5.2 of that Standard; and
 - (b) is clearly and indelibly marked “BS AU 193/T2”.
2. The requirements of this paragraph are that the silencer is—
 - (a) so constructed that—
 - (i) it meets the requirements of paragraphs 3 and 4 of British Standard BS AU 193a:1990;
 - (ii) were it to be fitted to an unused vehicle of the same model as the vehicle in question, the unused vehicle would meet the requirements of paragraph 5.2 of that Standard; and
 - (b) is clearly and indelibly marked “BS AU 193a: 1990/T2”.
3. The requirements of this paragraph are that the silencer is—
 - (a) so constructed that—
 - (i) it meets the requirements of paragraphs 3 and 4 of British Standard BS AU 193a:1990;
 - (ii) were it to be fitted to an unused vehicle of the same model as the vehicle in question, the unused vehicle would meet the requirements of paragraph 5.3 of that Standard; and
 - (b) it is clearly and indelibly marked “BS AU 193a: 1990/T3”.
4. In this Schedule—
 - (a) “British Standard BS AU 193:1983” means the British Standard Specification for replacement motor-cycle and moped exhaust systems published by the British Standards Institution under reference number BS AU 193:1983;
 - (b) “British Standard BS AU 193a:1990” means the British Standard Specification for replacement motor-cycle and moped exhaust systems published by the British Standards Institution under reference number BS AU 193a:1990.

1. Paragraph (4) of regulation 59A shall not apply to a replacement silencer if the second requirement referred to in that regulation would be met were there substituted in Part II of this Schedule—

- (a) for the references to provisions in either of the British Standard Specifications, references to equivalent provisions in a corresponding standard; and
- (b) for the references to a mark, references to a mark made pursuant to that corresponding standard indicating that the silencer complies with those equivalent provisions.

2. In this Part of this Schedule, “corresponding standard”, in relation to a British Standard Specification, means—

- (a) a standard or code of practice of a national standards body or equivalent body of any member State;
- (b) any international standard recognised for use as a standard by any member State; or
- (c) a technical specification or code of practice which, whether mandatory or not, is recognised for use as a standard by a public authority of any member State,

where the standard, code of practice, international standard or technical specification provides, in relation to motor-cycles, a level of noise limitation and safety equivalent to that provided by the British Standard Specification and contains a requirement as respects the marking of silencers equivalent to that provided by that instrument.

3. A reference in this Part of this Schedule to a British Standard Specification is a reference to British Standard BS AU 193: 1983 or British Standard AU 193a: 1990; and “either of the British Standard Specifications” shall be construed accordingly.

4. In this Part of this Schedule, “British Standard BS AU 193: 1983” and “British Standard AU 193a: 1990” shall have the same meanings as in Part II of this Schedule.”.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989 (“the 1989 Regulations”).

Regulation 3 gives effect to Schedules 1 and 2 to the Regulations and makes some minor and consequential amendments to the 1989 Regulations.

Schedules 1 and 2 to the Regulations replace regulation 59 of the 1989 Regulations with new regulations 59, 59A and 59B and insert a new Schedule 6A.

New regulation 59 requires motor cycles to be so constructed that they meet specified noise limit requirements. These requirements are unchanged. As before, there is an exemption for vehicles first used before 1st April 1991 that have been approved under Council Directive 78/1015/EEC (O.J. No. L349, 13.12.78, p. 21) or that Directive as amended by Council Directive 87/56/EEC (O.J. No. L24, 27.1.87, p. 42). Also, as before, there is an exemption for vehicles first used on or after 1st April 1991 that have been approved under the 1978 Directive as amended by the 1987 Directive. There is, however, in both cases a new exemption for vehicles approved under the 1978 Directive as further amended by Council Directive 89/235/EEC (O.J. No. L98, 11.4.89, p. 1).

Previously, regulation 59 required original silencers fitted to motor-cycles to meet certain requirements in Annex I to the 1978 Directive. The new regulation 59A(1) requires an original silencer fitted to a motor-cycle first used before 1st February 1996 to meet those same requirements. However, new regulation 59A(2) requires such a silencer fitted to a motor-cycle first used on or after that date to comply with certain requirements of the 1978 Directive as amended by the 1989 Directive. New regulation 59A(3) contains exemptions for vehicles approved under the Directives.

New regulation 59A(4) replaces regulation 59(3)(b). It requires a replacement silencer to meet certain technical and noise requirements. The requirements are based on the Directives referred to above and British Standards BS AU 193:1983 and BS AU 193a:1990. The requirements vary according to the date of first use of the motor-cycle to which a silencer is fitted. There are also transitional provisions.

New regulation 59A(13) replaces regulation 59(4) and prohibits the use of a motor-cycle on a road if any part of the exhaust system is marked "not for road use" or words to that effect.

New regulation 59B imposes a new prohibition on the use of a motor-cycle if it does not meet certain requirements and would make materially less noise if it were in good and efficient working order or had not been altered.

Copies of the EEC Directives can be obtained from Her Majesty's Stationery Office. Copies of the British Standards can be obtained from the British Standards Institution, Sales Department, Linford Wood, Milton Keynes MK14 6LE (telephone: 0908 221166).