

2007 No. 481

ROAD TRAFFIC AND VEHICLES

**The Motor Vehicles (Construction and Use) (Amendment No. 4)
Regulations (Northern Ireland) 2007**

Made - - - - - *23rd November 2007*

Coming into operation - *5th January 2008*

The Department of the Environment makes the following Regulations in exercise of the powers conferred on it by Article 55(1), (2) and (6) and 110(1) of the Road Traffic (Northern Ireland) Order 1995(a):

Citation and commencement

1. These regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment No. 4) Regulations (Northern Ireland) 2007 and shall come into operation on 5th January 2008.

Interpretation

2. In these Regulations “the principal Regulations” means the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(b).

Amendment to regulation 2 (interpretation)

3. In regulation 2(1) of the principal Regulations after the definition of “the Approval Marks Regulations” insert—

“the EC Whole Vehicle Type Approval Regulations” means the Motor Vehicles (EC Type Approval) Regulations 1998(c);”.

Amendment to regulation 38 (mirrors)

4. In regulation 38 of the principal Regulations—

- (a) in paragraph (7)(a) for the word “prevent” substitute “present”;
- (b) in column 2 of item 5 in the Table for the words “first used on or after 1st October 1988” substitute “first used on or after 1st October 1989”.

(a) S.I. 1995 No. 2994 (N.I. 18); see Article 2(2) for the definition of “the Department”

(b) S.R. 1999 No. 454; relevant amending regulations are S.R. 2001 No. 28, regulation 7, S.R. 2002 No. 375, regulation 13, S.R. 2004 No. 67, regulation 10 and S.R. 2007 No. 15, regulation 4

(c) S.I. 1998/2051

Amendment to regulation 74A

5.—(1) Regulation 74A(a) of the principal Regulations, (emission of smoke, vapour, gases, oily substances, etc— further requirements for certain motor vehicles first used on or after 28th February 2003) shall be amended in accordance with paragraphs (2) to (5).

(2) For paragraph (7) substitute—

“(7) If a vehicle has, in accordance with Schedule 8, been exempted from the need to comply with any provision of a Community Directive specified in item 1 or 2 in the Table (“the exempted provision”), it shall, in substitution for the exempted provision, comply with the equivalent provision (if any) that would have applied by virtue of this regulation in relation to such a vehicle immediately before the coming into operation of the requirement to comply with the exempted provision; and in relation to that equivalent paragraphs 2 to 4 shall apply as if they referred to the Community Directive under which that equivalent provision arose”.

(3) In paragraph (8) for sub-paragraph (b) substitute—

“(b) “date as is specified” means, in relation to any vehicle and—

- (i) in relation to limit values set by a Community Directive specified in item 1 or 2 in the Table, the date specified by that Community Directive as that from which Member States are required to prohibit the registration or the entry into service of that vehicle if it does not comply with those limit values; or
- (ii) in relation to emission control and monitoring systems and devices, the date specified by a Community Directive specified in item 1 and 2 in the Table as that from which Member States are required to ensure that such equipment is fitted to that vehicle,

provided that, where a Community Directive specified in item 2 in the Table re-enacts a requirement imposed by a Community Directive that had been specified in that item immediately before 9th November 2006, the date as is specified shall be the date that had been specified by the previous Directive;”.

(4) After paragraph (8), insert—

“(9) Regulation 3(2) does not apply to any requirement imposed on a vehicle by or under this regulation.”.

(5) In the Table for item 2 substitute—

“2.	2005/55/EC or ECE Regulation 49.02	2005/78/EC, 2006/51/EC”.
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Amendment to Schedule 1 (Council directives and ECE Regulations)

6. In Table 1 in Schedule 1 to the principal Regulations, after item 86 insert—

“86A.	2005/55	28.09.05	L275, 20.10.05, p1	The measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of		
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(a) S.R. 1999 No. 454; regulation 74A was inserted by S.R. 2002 No. 375 regulation 10 and amended by S.R. 2004 No. 67 regulation 9

				gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles		
86B	2005/78	14.11.05	L31, 29.11.05, p1	The measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles	2005/55	
86C	2006/51	6.6.06	L152. 7.6.2006, p11	The measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles	2005/55, 2005/78"	

Amendment of Schedule 8 (End of series exemptions)

7.—(1) Schedule 8(a) to the principal Regulations shall be amended in accordance with paragraphs (2) to (8).

(2) For sub-paragraph (4A) of paragraph 1 substitute—

“(4A) No provision of any Community Directive specified in an item numbered 1 or 2 in the Table in regulation 74A shall be deemed to be a design, construction or equipment requirement applying to, or to impose limit values in relation to, a vehicle by virtue of paragraphs (2) and (3) of regulation 74A, if the vehicle is—

- (a) a type approval end of series vehicle,
- (b) a non-type-approval end of series vehicle, or
- (c) a late entry into service vehicle,

in relation to such a provision, and the vehicle is first used before the first anniversary of the date as is specified (as defined in regulation 74A) by the relevant Community Directive in item 1 or 2 in the Table in regulation 74A.”.

(3) In paragraph 2—

(a) for sub-paragraph (2) substitute—

“(2) For the purposes of paragraph (1), a vehicle is a type approval end of series vehicle, in relation to item 2 in the Table in regulation 67 or an item numbered 10 or higher (other than item 11) in Table II in regulation 74 or any provision of any Community Directive specified in item 1 or 2 in the Table in regulation 74A if—

- (a) by virtue of Schedule 1C to the Northern Ireland Regulations, or
- (b) by virtue of regulations 12 and 13 of, and Schedule 2 to, the EC Whole Vehicle Type Approval Regulations,

(which in certain circumstances defer the date on which certain requirements relating to exhaust emissions, noise and silencers cease to apply), the type approval requirements that applied to the vehicle on the date specified in column 3 of the item or, in relation to any provision of any Community Directive specified in item 1 or 2 in the Table in regulation 74A, on the date as is specified (as defined in regulation 74A) by the relevant Community Directive are the same as the type approval requirements that applied to the vehicle immediately before the date so specified in that column of that item or, in relation to any provision of any Community Directive specified in item 1 or 2 in the Table in regulation 74A, the date as is specified by the relevant Community Directive.”.

(b) after paragraph 2, insert—

“(2A) For the purposes of paragraph 1, a vehicle is a type approval end of series vehicle in relation to an item in the Table in regulation 67, or in Table II in regulation 74, or any provision in any Community Directive specified in item 1 or 2 in the Table in regulation 74A, if it has been exempted from that item or provision under—

- (a) the laws of a relevant State (as defined by paragraph 5(c)) other than the United Kingdom, or
- (b) the laws applicable in Great Britain,

pursuant to Article 8(2)(b) of the Framework Directive.”.

(4) In paragraph 7—

(a) for sub-paragraph (1) substitute—

“(1) For the purposes of paragraph 1, a vehicle is a non-type approval end of series vehicle in relation to an item or provision if it meets the requirements of sub-paragraph (2) in relation to the item or provision.”;

(b) in sub-paragraph (2)—

(a) Schedule 8 was amended by S.R. 2002 No. 375 regulation 15

- (i) for the words from the beginning of the sub-paragraph to the word “if” substitute—
“A vehicle meets the requirements of this sub-paragraph in relation to an item or provision if—”;
 - (ii) in head (a), after the words “the Northern Ireland Regulations”, insert “or the EC Whole Vehicle Type Approval Regulations”;
 - (iii) in head (e)(ii), the words from “or in relation to” to the end substitute “or in relation to any provision of any Community Directive specified in item 1 or 2 in the Table in regulation 74A, on the date as is specified (as defined in regulation 74A) by the relevant Community Directive, is less than the specified number, or 100, whichever is the greater.”.
- (5) In paragraph 8—
- (a) after the words “and a particular item”, insert “, or provision”;
 - (b) for sub-paragraph (b) substitute—
“(b) is a “vehicle” within the meaning of Community Directive 70/220 (as amended by Community Directive 83/351) or Community Directive 2005/55 (as amended by Community Directives 2005/78 and 2006/51);”.
- (6) In paragraph 9—
- (a) in sub-paragraph (1), after the words “and a particular item”, insert “or provision” and for “10%” substitute “30%”;
 - (b) in head (a), after the words “the Northern Ireland Regulations”, insert “or the EC Whole Vehicle Type Approval Regulations”;
 - (c) in sub-paragraph (2)—
 - (i) for head (a) substitute —
“(a) is a “vehicle” within the meaning of Community Directive 70/220 (as amended by Community Directive 83/351) or Community Directive 2005/55 (as amended by Community Directives 2005/78 and 2006/51);”.
 - (ii) in head (c), after the words “or, in relation to”, insert “any provision of any Community Directive specified in”.
- (7) In paragraph 11(c), after the words “in relation to”, insert “any provision of any Community Directive specified in”.
- (8) In paragraph 12—
- (a) after the words “in relation to an item”, insert “or provision”;
 - (b) in sub-paragraph (b), after the words “or, in relation to”, insert “any provision of any Community Directive specified in”.

Sealed with the Official Seal of the Department of the Environment on 23rd November 2007.



Stanley Duncan
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 (“the Construction and Use Regulations”) to incorporate the requirements of Directives 2005/55/EC(a) and 2005/78/EC(b), as amended by Directive 2006/51/EC(c), on vehicle emissions into the domestic requirements concerning the design, construction, equipment and use of vehicles. They also amend the provisions relating to emissions requirements for end of series vehicles to ensure that European law is fully implemented.

Regulation 5(5) replaces the reference to the Directives previously listed in item 2 in the Table in regulation 74A of the Construction and Use Regulations with a reference to Directives 2005/55/EC, 2005/78/EC and 2006/51/EC, in order to implement these Directives. *Regulations 7(5)(b) and 7(6)(c)* make the same substitutions with respect to the definition of “vehicle” for the purposes of the meaning of “non-type approval end of series vehicles” (Part III of Schedule 8 to the Construction and Use Regulations). The proviso at the end of *regulation 5(3)* reflects the fact that the Directives not only impose new requirements, but also consolidate others, and ensures that, when a requirement is re-enacted, the “date as is specified” in relation to that requirement remains unchanged.

Regulations 5 and 7 amend regulation 74A and Schedule 8, to take into account the fact that some Directives specify more than one stage of emission limit values (or other requirements). These amendments ensure that an end of series vehicle can be exempted from one stage only. When this happens, the vehicle will still need to comply with the requirements of the previous stage of the same directive, or, if it is exempted from the first stage of a directive, the requirements of the previous directive (if any). Finally, *regulation 7(3)(b)* ensures that end of series exemptions granted in other Member States and in Great Britain are recognised in Northern Ireland.

Regulations 3 and 7(3)(a) ensure that end of series vehicles under the Motor Vehicles (EC Type Approval) Regulations 1998 are covered by the exemptions in regulation 74A(7) of, and Schedule 8 to, the Construction and Use Regulations.

For vehicles not subject to type approval, the maximum number of vehicles that could enter into service under the Construction and Use Regulations was either 10% of the vehicles registered by the manufacturer in the 12 months before the date when the new set of requirements came into effect, or 50, whichever was the greater. *Regulation 7(4)* increases the latter number to 100 and *regulation 7(6)* increases the percentage to 30%.

For vehicles subject to the Type Approval for Goods Vehicles Regulations, *regulation 7(6)* increases the maximum number of vehicles which may be regarded as end of series vehicles to 30% of those registered in the 12 months before the date when the new set of requirements came into effect, or 100, whichever is the greater.

The opportunity has been taken in these Regulations to correct two minor drafting errors in previous Regulations. These have been corrected *at regulation 4*.

A Regulatory Impact Assessment has been prepared and is available from Road Safety Division, Department of the Environment, Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB or the Department of the Environment website at www.roadsafetyni.gov.uk.

A transposition note has been prepared for these Regulations and is available from the above address.

Copies of the relevant Directives can be obtained from TSO, 16 Arthur Street, Belfast BT1 4GD.

(a) OJ No. L275, 20.10.2005, p.1.
(b) OJ No. L313, 29.11.2005, p.1.
(c) OJ No. L152, 7.6.2006, p.11.

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