
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the member States relating to the measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (the Directive⁽¹⁾).

2. These Regulations apply to Compression Ignition (CI) engines with a net power of 18 kw and up to and including 560 kw operating under intermittent speed when used in non-road mobile machinery. Examples of the types of applications which would be covered by these Regulations are provided in regulation 3(2) and include industrial drilling rigs, construction equipment and forestry equipment, which normally are not for the use of passenger or goods transport (regulation 2(1)(b)).

3. Regulation 6(1) and (2) sets emission standards for these engines for the first time and these standards come into force in two stages commencing with the coming into force of these Regulations. A type approval certificate cannot be issued to a manufacturer unless the engines are approved to these new standards.

4. The procedures for applying for type approval are set out in regulation 8. This describes the information which should accompany an application for type approval and also provides for a fee to be paid by the manufacturer on application to the approval authority. Regulation 9 sets out the criteria which must be met in order for the type approval authority to issue a certificate. The basic requirements are that the engine should have passed all the test procedures and requirements which are set out in the Schedules to the Regulations, that the engine conforms to the information which accompanied the application and that adequate arrangements are in place to ensure effective control over conformity of production. Provision is also made for the approval authority to restrict the scope of the approval certificate for example in circumstances where the performance of the engine is dependent upon operating in conjunction with other machinery parts.

5. Where changes to the type approval are required for example because the particulars of the engine have altered since the granting of type approval, regulation 10 requires manufacturers to apply to the approval authority for an amendment or extension to the original type approval on payment of a fee.

6. Transitional arrangements have been included in these Regulations to enable manufacturers to continue to sell stocks of engines which have been made prior to the relevant production date. Regulation 7 enables manufacturers to continue to place these engines on the market for a further period of two years up to the final date specified.

7. The conformity procedures are set out in regulation 11 and the basic requirements are that once a type approval has been issued, the manufacturer must affix to each engine unit the markings defined in paragraph 3 of Schedule 1 which includes the type approval number. Furthermore where the type approval incorporates restrictions on use, these should be specified in a document accompanying the engine unit and indicating any conditions for fitting. Where a series of engine type is involved there is provision for only one such document to be provided. This information should be delivered to the manufacturer of machinery no later than when the first such engine is despatched.

(1) OJNo. L 59, 27.2.98, p.1.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8. Regulation 11 requires manufacturers to maintain records of engines which have received type approval for a minimum of 20 years. Powers are also included to enable the approval authority to request from manufacturers information about such engines, including dates when production ceased, as and when required by the authority.

9. A type approval certificate can be withdrawn by the approval authority in circumstances where it believes that an engine bearing a type approval marking does not conform with the original type approval. The type approval certificate cannot be withdrawn unless the manufacturer has been given time to rectify the position and has demonstrated that it is unwilling or unable to do so. The approval authority is required to provide notice to the manufacturer of the intention to withdraw the certificate and the reason for doing so (regulation 13).

10. For the purposes of these Regulations the “approval authority” is the Vehicle Certification Agency.

11. Certain categories of engines are exempt from the Regulations. These include engines produced for use by the armed services and engines which have been type approved by the approval authorities of other member States.

12. There is also provision for engine manufacturers to apply for a derogation from these Regulations for engines which remain in stock once the final date for placing on the market has been passed. In order to take advantage of this derogation the engines must have been produced before the appropriate production date set out in regulation 7. The derogation is limited to ten per cent of all new engines placed on the market in the United Kingdom in the previous year. To acquire a derogation manufacturers are required to apply to the approval authority with details of the engines concerned before the final date for placing the engines on the market. This derogation is available for twelve months from the appropriate date for placing the engines on the market (regulation 15).

13. Regulations 16 to 20 relate to the enforcement of the Regulations. The enforcement authorities will be the Secretary of State and the Weights and Measures Authorities and the Department of Economic Development in Northern Ireland. Regulation 17 provides for offences and regulation 18 for penalties. Regulation 19 includes provision for the defence of due diligence and regulation 20 provides for the liability of persons other than the principal offender.