

2005 No. 390

ROAD TRAFFIC

The Tractor etc (EC Type-Approval) Regulations 2005

Made - - - - *24th February 2005*

Laid before Parliament *28th February 2005*

Coming into force - - *1st July 2005*

The Secretary of State for Transport, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) for the regulation of the type, description, construction or equipment of vehicles, and of components of vehicles, and in particular any vehicle type approval scheme, in exercise of the powers conferred by that section, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Tractor etc (EC Type-Approval) Regulations 2005 and shall come into force on 1st July 2005.

Interpretation

2.—(1) In these Regulations—

“certificate of conformity” means a certificate issued under regulation 6 or by an EC type-approval authority in a Member State other than the United Kingdom;

“component” means a device, intended to be part of a vehicle, which may be type-approved independently of a vehicle;

“EC type-approval” means the procedure whereby a type of vehicle, system, component or separate technical unit is certified as having satisfied relevant technical requirements of the Tractor Type Approval Directive, and the expression shall include multi-stage EC type-approval;

“EC type-approval authority” means the authority in a Member State which is responsible for all aspects of the approval of a type of vehicle, system, component or separate technical unit, and which issues and, where appropriate, withdraws EC type-approvals, serves as the contact point for the EC type-approval authorities and checks the measures taken by the manufacturer in order to ensure product conformity;

“EC type-approval certificate” means a certificate in one of the forms in Annex II, Chapter C of the Tractor Type Approval Directive, or the corresponding annex to a separate directive;

“ECE Regulation” means a Regulation annexed to the Agreement concerning the adoption of uniform conditions of approval for motor vehicle equipment and parts and reciprocal recognition thereof concluded at Geneva on 2nd March 1958 to which the United Kingdom is

(a) S.I. 1972/1811.

(b) 1972 c.68.

a party as revised and re-titled the Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled vehicles and the Conditions for Reciprocal recognition of Approvals granted on the basis of these Prescriptions by an agreement at Geneva on 5th October 1995(a) which revised Agreement was acceded to by the European Community by a Council Decision of 27th November 1997(b);

“interchangeable machinery” means any instrument which may be used in agriculture or forestry and which is designed or adapted for the purpose of being towed by a tractor and will when in use change or add to the tractor’s functions;

“multi-stage EC type-approval” is the procedure whereby one or more EC type-approval authorities certify that an incomplete or completed vehicle type has satisfied the relevant technical requirements of the Tractor Type Approval Directive;

“separate directive” means a directive listed in Annex II, Chapter B of the Tractor Type Approval Directive;

“separate technical unit” means a device which is subject to the requirements of a separate directive, which is intended to be part of a vehicle, and may be type approved separately but only in relation to one or more specified types of vehicle, where the separate directive makes express provision for so doing;

“system” means a set of devices combined to form a specific function in a vehicle;

“the Tractor Type Approval Directive” means Directive 2003/37/EC of the European Parliament and of the Council of 26th May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC(c) as read with Council Directive 2004/66/EC(d);

“tractor” means any motorised, wheeled or tracked agricultural or forestry tractor having at least two axles and a maximum design speed of not less than 6 kilometres per hour, whose main function is tractive power, and is designed to perform the pulling, pushing, carrying and actuating of interchangeable equipment associated with agricultural or forestry work, or to tow agricultural or forestry trailers, although it may be adapted either to carry a load in connection with that work or be equipped with passenger seats or both;

“trailer” means any towed agricultural or forestry trailer constructed or adapted to carry loads and designed to be towed by a tractor for the purposes of agricultural or forestry work whether or not part of the load is carried by the tractor;

“type” in relation to vehicle means vehicles of a vehicle category which do not differ in the essential respects referred to, and within the permissible variants and versions set out in, Annex II Chapter A of the Tractor Type Approval Directive;

“vehicle” means any tractor, trailer or interchangeable towed machinery whether complete, incomplete or completed, which is constructed or adapted for the use of agriculture, horticulture or forestry and which has a maximum design speed of not less than 6 kilometres per hour; and

“vehicle category” means any set of vehicles which have identical design characteristics and which is defined in Annex II Chapter A of the Tractor Type Approval Directive.

(2) For the purposes of the Tractor Type Approval Directive the EC type-approval authority in the United Kingdom is the Secretary of State who is referred to in these Regulations as the “UK type-approval authority”.

(a) Cmnd 1830 5.10.1995.

(b) O.J. L346, 17.12.97 p78.

(c) O.J. L171, 9.7.2003 p.1.

(d) O.J. L168, 1.5.2004 p.35; which Directive concerns adaptations to the Community *acquis* by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

(3) Other expressions used in these Regulations and which are also used in the Tractor Type Approval Directive shall have the same meaning as in that Directive and cognate expressions shall be construed accordingly.

(4) For the purposes of regulation 5(1) compliance with a technical requirement under an ECE Regulation shall be deemed to be equivalent to compliance with a technical requirement under the relevant separate directive if that ECE Regulation has been deemed equivalent by the operation of article 12(2) and (3) of the Tractor Type Approval Directive.

Application of the Regulations

3. These Regulations shall apply to any vehicle or component, other than—

- (a) a vehicle which has undergone a procedure whereby the vehicle has obtained certification that it has satisfied any national requirements applicable in the United Kingdom on an individual basis;
- (b) machinery that has been specially designed for forestry use, such as skidders and forwarders as defined in the International Standards Order(a);
- (c) forestry machinery based on a chassis for earthmoving equipment as defined in the International Standards Order(b);
- (d) interchangeable machinery that is fully raised from the ground when the tractor to which it is attached is in use on a road; and
- (e) a vehicle belonging to vehicle category T1, T2 or T3 where the sale or entry into service of that type of vehicle was permitted in the European Community before the coming into force of these Regulations.

Application for EC type-approval certificate

4.—(1) An application for EC type-approval for a vehicle, system, component or separate technical unit to which these Regulations apply shall be made to the UK type-approval authority by the manufacturer.

(2) An application under paragraph (1) shall be in accordance with those requirements in the Tractor Type Approval Directive that are applicable in the circumstances of the case, which includes the use of the appropriate form in Annex I to that Directive, or the corresponding annex to a separate directive, and the supply of any data, drawings, photographs or other documents which are stipulated as required in Annex I to that Directive, or the corresponding annex to a separate directive.

(3) Documentation supplied under paragraph (2) shall be made available to the UK type-approval authority until EC type-approval is granted or refused.

Grant or refusal of application

5.—(1) Without prejudice to paragraph (2), the UK type-approval authority shall, when it has considered the application made under regulation 4 and is satisfied that it conforms with the provisions of article 4(1) of the Tractor Type Approval Directive, grant or amend EC type-approval to the type of a vehicle, system, component or separate technical unit, and issue the appropriate EC type approval certificate.

(2) The UK type-approval authority may refuse to grant EC type-approval if it considers the vehicle is a serious risk to—

- (a) road safety,
- (b) the environment, or

(a) ISO 6814:2000.
(b) ISO 6165:2001.

(c) the health and safety at work of any person.

(3) Where in accordance with paragraphs (1) and (2) the UK type-approval authority decides to refuse an application for EC type-approval certificate it shall give notice of its decision to the applicant.

(4) The grant or amendment of EC type-approval to a system, component or separate technical unit under paragraph (1) may include restrictions on use or conditions for fitting, and such restrictions on use or conditions shall be clearly marked on the EC type-approval certificate.

Issue of certificate of conformity

6.—(1) The holder of an EC type-approval certificate which has been issued under regulation 5 shall issue a certificate of conformity, in a form which is compatible with the specimen forms in Annex III of the Tractor Type Approval Directive, that certifies that any vehicle for which he has responsibility for conformity of production as manufacturer or assembler has been approved according to that Directive as complying with all the applicable regulatory instruments.

(2) The certificate issued under regulation (1) shall state whether the vehicle may be registered and put into service in the United Kingdom without requiring any further approvals.

(3) The holder of an EC type-approval certificate which has been issued under regulation 5 for a system, component or separate technical unit shall, if the separate directives so provide, affix to each component or separate technical unit manufactured in conformity with the approved type a mark or number which identifies the relevant EC type-approval certificate and the place where that certificate can be inspected.

Grant of first licence, sale and entry into service

7.—(1) Subject to regulation 8, where a person applies on or after the coming into force of these Regulations for a licence or nil licence under the Vehicle and Excise Registration Act 1994(a) for a vehicle which comes within the vehicle category T1, T2 and T3 and to which these Regulations apply, and no licence or nil licence has previously been granted under that Act for that vehicle, the Secretary of State shall not grant the licence or nil licence unless—

- (a) it is shown that a certificate of conformity has effect with respect to the vehicle, or
- (b) the application is made before 1st July 2009 and the vehicle belongs to the same type as a vehicle used before 1st July 2005.

(2) Where by virtue of paragraph (1) the Secretary of State refuses to grant a licence or nil licence for a vehicle, he shall give notice of his decision to the applicant.

(3) Where a mark or number which identifies the EC type-approval certificate has been affixed in accordance with regulation 6(3) for a system, component or separate technical unit, that system, component or separate technical unit shall not be prohibited from sale or entry into service on a ground relating to its construction or functioning.

Exemptions

8.—(1) Regulation 7 shall not apply in the case of any vehicle:

- (a) used for police or fire-fighting purposes;
- (b) used by or under the control of Her Majesty's forces;
- (c) used in the service of a visiting force;
- (d) used by a local authority in the discharge of any function conferred on or exercisable by that authority under regulations made under the Civil Defence Act 1948(b); or

(a) 1994 c.22, to which there are amendments not relevant to these Regulations.

(b) 1948 c.5, (12, 13, & 14 Geo 6).

- (e) exempted by the UK type-approval authority, following a request by the manufacturer or assembler, provided that the criteria set out in articles 9 (small series) and 10 (end of series) of the Tractor Type Approval Directive are met.

(2) Regulation 7(1) and (2) shall not apply in the case of any vehicle, which has been granted EC type-approval by the UK type-approval authority in accordance with article 11 (incompatibility of vehicles, systems, components or separate technical units) of the Tractor Type Approval Directive.

Withdrawal of EC type approval

9.—(1) The UK type-approval authority may withdraw an EC type-approval certificate granted by it in respect of a type of vehicle system, component or separate technical unit by giving notice to the holder if—

- (a) two or more vehicles, systems, components or separate technical units, as the case may be, have been examined by the UK type-approval authority or on its behalf, and
- (b) it is satisfied that that has been a failure to conform to the approved type in respect of at least two of the vehicles or systems or components or separate technical units.

(2) Where a mark or number which identifies the EC type-approval certificate has not been affixed in accordance with regulation 6(3) the UK type-approval authority shall be satisfied that there has been a failure to conform to the approved type.

(3) Before withdrawing an EC type-approval certificate under paragraph (1), the UK type-approval authority shall give the holder notice in writing—

- (a) stating that it is considering withdrawing the approval, and
- (b) giving particulars of the grounds on which it is considering withdrawing the approval.

(4) Where notice is given under paragraph (2) the person to whom it is given may within 28 days of receipt of the notice make written representations to the UK type-approval authority.

(5) The decision to withdraw shall not be made until the 28 day period for making representations has expired and the UK type-approval authority shall take into account any representations made under paragraph (3) before deciding whether or not to withdraw the approval.

Forgery and deception

10.—(1) A person who with intent to deceive—

- (a) forges, alters or uses an EC type-approval certificate or a certificate of conformity, or
- (b) lends an EC type-approval certificate or a certificate of conformity to another person, or
- (c) allows an EC type-approval certificate or a certificate of conformity to be used by another person, or
- (d) makes any document which resembles an EC type-approval certificate or a certificate of conformity, or
- (e) has in his possession any document which resembles an EC type-approval certificate or a certificate of conformity,

shall be guilty of an offence.

(2) A person who commits an offence under paragraph (1) shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

False statements and documents

11. A person who, in supplying information or producing documents for the purposes of these Regulations—

- (a) makes a statement which he knows to be false in a material particular, or
- (b) recklessly makes a statement which is false in a material particular, or
- (c) produces, provides, sends or otherwise makes use of a document which is false in a material particular,

shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Review of Decisions

12.—(1) Where the UK type-approval authority has given notice of a decision to a person under regulations 5(3) or 9(1), it shall at the same time state in writing—

- (a) the grounds upon which that decision is based, and
- (b) that the person to whom the decision is directed may, in writing and within 28 days of its receipt, request the Secretary of State to review the decision.

(2) On a review under this regulation the Secretary of State may—

- (a) hold an inquiry in connection with this review, and
- (b) appoint an assessor for the purposes of assisting him with the review or any such inquiry.

(3) Section 180 of the Road Traffic Act 1988(a) shall apply to an inquiry under this regulation as it applies to an inquiry under that Act.

Notices

13. Any notice under these Regulations shall be in writing and may be sent by post.

Amendments

14. Section 64A(1) of the Road Traffic Act 1988 shall be amended so that after “motorcycle type approval Directive” there is inserted “or tractor type approval Directive”.

Signed by the authority of the Secretary of State

24th February 2005

David Jamieson
Parliamentary Under Secretary of State
Department for Transport

(a) 1988 c.52; section 64A was added by SI 1992/3107 and then amended by the Vehicle Excise and Registration Act 1994 (c.22) section 63 and Schedule 3, and by SI 1999/2920.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2003/37/EC which requires Member States to set up a system for granting EC type approval for agricultural or forestry tractors, their trailers and interchangeable towed machinery together with their systems, components or separate technical units.

Decisions about granting EC type approval must be made in accordance with Council Directive 2003/37 (*regulation 5*) and an applicant shall use a form set out, and include the documents which are stipulated as required, in the Annex to the Directive (*regulation 4*).

The UK type-approval authority, who is the Secretary of State (*regulation 2(2)*), can refuse to grant EC type approval if it considers there is a risk to road safety, the environment or the health and safety at work of any person (*regulation 5(2)*).

The holder of an EC type approval certificate shall issue a certificate of conformity of production in respect of each individual vehicle subsequently manufactured or assembled (*regulation 6*). In the case of vehicles which come within categories T1, T2 or T3 (as defined in annex II Chapter A of the Directive), unless the vehicle comes within specified exemptions (*regulation 8*), a certificate of conformity of production shall be necessary for a licence to be granted for that vehicle under the Vehicle Excise and Registration Act 1984 (*regulation 7*).

The UK type-approval authority may withdraw type approval if following examination there is found to be failure to conform to the approved type in two instances (*regulation 9*).

Notice of refusal to grant or withdrawal of grant EC type approval shall be provided in writing, and a right to request the Secretary of State to review the refusal or decision to withdraw is provided (*regulation 12*).

Forgery, and deception in respect of obtaining or use of an EC type approval certificate, are criminal offences punishable on summary conviction to a maximum fine of £5000 or indictment to an unlimited fine and/or two years imprisonment (*regulation 10*).

The making of false statements or production of information known to be false are criminal offences punishable on conviction to a maximum fine of £5000 (*regulation 11*).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and a Transposition Note are available from the Department for Transport, Vehicle Technology and Standards Division, 76 Marsham Street, London SW1P 4DR (telephone 020 7944-2092).

Copies of the EC Directives and Command Papers referred to in these Regulations can be obtained from the Stationery Office. Copies of the International Standards Orders referred to in these Regulations can be obtained from British Standards Institution, 389 Chiswick High Road, London W4 4AL.

STATUTORY INSTRUMENTS

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