

2009 No. 718

ROAD TRAFFIC

**The Road Vehicles (Individual Approval) (Fees) Regulations
2009**

<i>Made</i>	- - - -	<i>24th March 2009</i>
<i>Laid before Parliament</i>		<i>27th March 2009</i>
<i>Coming into force</i>	- -	<i>29th April 2009</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 56(1) and (2) of the Finance Act 1973(a) and by virtue of the Department of Transport (Fees) Order 1988(b), and section 128 of the Finance Act 1990(c).

In relation to the exercise of his powers under the Finance Act 1973 he has the consent of the Treasury.

Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Individual Approval) (Fees) Regulations 2009 and come into force on 29th April 2009.

Interpretation

2.—(1) In these Regulations—

“Approval Regulations” means the Road Vehicles (Approval) Regulations 2009(d);

“ACS vehicle” means a vehicle as described in paragraphs 6, 8 or 9 of Part 1 of Schedule 5 to the Approval Regulations;

“appeal” means an appeal made in accordance with regulation 37(2) and (3) of the Approval Regulations;

“applicant” means a qualifying applicant as defined in regulation 27(11) of the Approval Regulations;

“application” means an application (whether an original application or a further application) made in accordance with regulation 27(1) and (2) of the Approval Regulations;

“approval authority” means the Secretary of State;

(a) 1973 c.51.

(b) S.I. 1988/643 was made under section 102 of the Finance (No. 2) Act 1987 (c.51). The relevant reference in S.I. 1988/643 is Schedule 1, Table II, item B, which was amended by S.I. 2009/711. There are other amending instruments but none is relevant.

(c) 1990 c.29.

(d) S.I. 2009/717.

“bank holiday” means a day which under the Banking and Financial Dealings Act 1971^(a) is a bank holiday;

“examination” means the examination or further examination of a vehicle in accordance with regulation 27(5) of the Approval Regulations;

“exceptional circumstances” means an accident, a fire, an epidemic, severe weather, a failure in the supply of essential services or other unexpected happening (excluding a breakdown or mechanical defect in a vehicle);

“Framework Directive” has the same meaning as in regulation 3(1) of the Approval Regulations;

“individual approval” has the same meaning as in regulation 3(1) of the Approval Regulations;

“out of hours” means at any time—

(a) on any day which is—

- (i) a Saturday or Sunday, Christmas Day or Good Friday; or
- (ii) a bank holiday; or

(b) on any other day, other than between—

- (i) 8.00am and 5.00pm on a Monday to Thursday inclusive; or
- (ii) 8.00am and 4.30pm on a Friday;

“re-examination” means a re-examination of a vehicle in accordance with regulation 37 of the Approval Regulations;

“working day” means Monday to Friday inclusive, excluding any day which is a bank holiday.

(2) In these Regulations expressions relating to vehicle categories are to be construed in accordance with Annex II to the Framework Directive.

Application

3. These Regulations apply to any vehicle to which regulation 27 of the Approval Regulations applies.

Fees for original applications

4.—(1) Subject to paragraph (3), the prescribed fee, for the purposes of regulation 27(5) of the Approval Regulations, in respect of an original application, is—

- (a) £199 in the case of a vehicle in vehicle category M₁ or N₁, where the vehicle is not an ACS vehicle;
- (b) £450 in the case of a vehicle in vehicle category M₁ or N₁, where the vehicle is an ACS vehicle;
- (c) £250 in the case of a vehicle in vehicle category M₂;
- (d) £360 in the case of a vehicle in vehicle category M₃;
- (e) £230 in the case of a vehicle in vehicle category N₂ or N₃;
- (f) £70 in the case of a vehicle in vehicle category O₁ or O₂; and
- (g) £145 in the case of a vehicle in vehicle category O₃ or O₄.

(2) Subject to paragraph (3), the prescribed fee, in respect of an original application to which regulation 27(3) of the Approval Regulations applies and which complies with the requirements set out in regulation 27(4), is £100 in the case of any vehicle.

(3) Where, at the applicant’s request, the time appointed for the examination of a vehicle for the purposes of such an application is out of hours, the fees prescribed by paragraphs (1) and (2) shall be increased by £95 in the case of any vehicle.

(a) 1971 c.80.

(4) Any fee required to be paid by virtue of paragraphs (1), (2) or (3) shall be paid to the approval authority as it directs.

Fees for further applications

5.—(1) Subject to paragraph (3), the prescribed fee, for the purposes of regulation 27(5) of the Approval Regulations, in respect of a further application, is—

- (a) £40 in the case of a vehicle in vehicle category M₁ or N₁, where the vehicle is not an ACS vehicle;
- (b) £90 in the case of a vehicle in vehicle category M₁ or N₁, where the vehicle is an ACS vehicle;
- (c) £50 in the case of a vehicle in vehicle category M₂;
- (d) £72 in the case of a vehicle in vehicle category M₃;
- (e) £46 in the case of a vehicle in vehicle category N₂ or N₃;
- (f) £14 in the case of a vehicle in vehicle category O₁ or O₂; and
- (g) £29 in the case of a vehicle in vehicle category O₃ or O₄.

(2) Subject to paragraph (3), the prescribed fee, in respect of a further application to which regulation 27(3) of the Approval Regulations applies and which complies with the requirements set out in regulation 27(4), is £25 in the case of any vehicle.

(3) Where, at the applicant's request, the time appointed for the examination of a vehicle for the purposes of such an application is out of hours, the fees prescribed by paragraphs (1) and (2) shall be increased by £19 in the case of any vehicle.

(4) Any fee required to be paid by virtue of paragraphs (1), (2) or (3) shall be paid to the approval authority as it directs.

Further applications where no fee is payable

6.—(1) The prescribed fee referred to in regulation 27(5) of the Approval Regulations shall not be payable in respect of a further application if—

- (a) by agreement, the vehicle is submitted for examination before the end of the fifth day after that examination on which the approval authority will accept vehicles for examination, and
- (b) the conditions of paragraph (2) or (3) are met in the case of any vehicle.

(2) The conditions of this paragraph are that the further application is due only to a failure to comply with the technical provisions of no more than six of the following requirements of Part 2 of Schedule 5 to the Approval Regulations—

- (a) requirement 3 in so far as the technical provisions relate to the fuel filler arrangements;
- (b) requirement 4;
- (c) requirement 7 in so far as the technical provisions relate to the operation of the device;
- (d) requirement 8 in so far as the technical provisions do not relate to the field of vision;
- (e) requirement 9 in so far as the technical provisions relate to a warning light failure;
- (f) requirement 10 in so far as the technical provisions relate to markings on the devices;
- (g) requirement 12 in so far as there are no more than three separate examples of a failure to comply with the technical provisions;
- (h) requirement 13;
- (i) requirement 16 in so far as there are no more than three separate examples of a failure to comply with the technical provisions;
- (j) requirement 17 in so far as the technical provisions relate to a speedometer illumination failure;

- (k) requirement 18;
- (l) requirements 20 to 30 in so far as the technical provisions do not relate to the angle of visibility or position;
- (m) requirement 31 in so far as the technical provisions relate to the child restraint warning label;
- (n) requirement 33 in so far as there are no more than three separate examples of a failure to comply with the technical provisions;
- (o) requirement 34;
- (p) requirement 35;
- (q) requirement 36;
- (r) requirement 37;
- (s) requirement 45 in so far as the technical provisions relate to the approval marking; and
- (t) requirement 46 in so far as the technical provisions relate to the approval marking and there is no more than one example of a failure.

(3) The conditions of this paragraph are that the further application is due only to a failure to comply with an obligation under Part 2, 3 or 4 of Schedule 5 to the Approval Regulations to produce sufficient documentary evidence to the approval authority before the examination of compliance with the technical provisions of any requirement under those Parts.

Fee where notice of vehicle non submission is given

7. If the applicant—

- (a) has before the time appointed for the examination of a vehicle for the purposes of either an original application or further application given the approval authority 3 working days notice (whether in writing or otherwise) at the place appointed for that examination that the vehicle is not to be submitted for examination at that time, or
- (b) satisfies the approval authority that the vehicle cannot, or as the case may be could not, be submitted for examination at the time appointed because of exceptional circumstances occurring not more than 5 working days before that time and of which the applicant gives notice to the approval authority (whether in writing or otherwise) within 3 working days of the occurrence of those circumstances,

then, the fee payable shall be £100 and, unless another time is arranged for that examination, the balance of any sum previously paid in respect of that application shall be repaid to the applicant.

Fees for appeals

8.—(1) Subject to paragraph (2) and regulation 10, the prescribed fee for the purposes of regulation 37(3)(d) of the Approval Regulations in respect of an appeal is the same amount as the fee payable under regulation 4(1), (2) or (3), as the case may be.

(2) Where, at the appellant’s request, the time appointed for the re-examination of a vehicle for the purposes of such an appeal is out of hours—

- (a) the fee prescribed by paragraph (1) shall be increased by the same amount as the amount payable under regulation 4(3); and
- (b) such additional amount shall be paid to the approval authority before the re-examination is carried out.

(3) Any fee required to be paid by virtue of paragraphs (1) or (2) shall be paid to the approval authority as it directs.

Repayment of appeal fees

9.—(1) After the completion of a re-examination of a vehicle, the approval authority may, as it thinks fit, repay to the appellant either the whole or part of the fee paid on the appeal, where it appears that there were substantial grounds for contesting the whole or part of the determination against which the appeal was made.

(2) If the appellant—

- (a) has before the time appointed for such a re-examination given the approval authority 3 working days notice (whether in writing or otherwise) at the office at which the appeal was lodged that the vehicle is not to be submitted for re-examination at that time, or
- (b) satisfies the approval authority that the vehicle cannot, or as the case may be could not, be submitted for re-examination at the time appointed because of exceptional circumstances occurring not more than 5 working days before that time and of which the appellant gives notice to the approval authority (whether in writing or otherwise) within 3 working days of the occurrence of those circumstances,

then, the fee payable shall be £100 and, unless another time is arranged for the re-examination, the balance of any sum previously paid in respect of the appeal shall be repaid to the appellant.

Fee where no notice or insufficient notice of vehicle non submission is given

10.—(1) Where a vehicle is not submitted for an examination or re-examination at the appointed time and the approval authority has not received prior notification, or notification in accordance with regulation 7 or 9(2), the fee shall be such amount as is prescribed in regulations 4(1), (2) or (3) or 8(1), as the case may be.

(2) Where the fee referred to in paragraph (1) has been paid in advance, that fee shall be retained by the approval authority.

Fees for duplicate certificates

11. The prescribed fee for the purposes of regulation 38(6) of the Approval Regulations is £25.

Fees for modified type approved vehicles

12. For the purposes of an application made in respect of a vehicle which has been type approved and modified within the meaning of article 24(8) of the Framework Directive, the approval authority may determine that the fee for that application shall be £1.10 but only if it is reasonable, in the light of the nature of the modification, to apply for an individual approval rather than to apply for the type approval to be amended.

Signed by authority of the Secretary of State

24th March 2009

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

We consent to the making of these Regulations to the extent that they are made in exercise of the powers conferred by section 56(1) and (2) of the Finance Act 1973

18th March 2009

Tony Cunningham
Dave Watts
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Road Vehicles (Approval) Regulations 2009 (“the Approval Regulations”) implement Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ No L 263, 9.10.2007, p1).

These Regulations prescribe the fees payable in accordance with applications, appeals and the issue of documents in respect of individual approval, which are made in accordance with the Approval Regulations.

Regulation 2 defines the terms used in these Regulations, cross referring as applicable to the appropriate provisions in the Approval Regulations. The definition “ACS vehicle” covers particular categories of vehicle as described in paragraphs 6, 8 and 9 of Part 1 of Schedule 5 to the Approval Regulations. These vehicle categories are amateur built vehicles, vehicles manufactured using parts of a registered vehicle and rebuilt vehicles.

Regulations 4 and *5* prescribe the fees for an original and further application. Those fees are set out in the following Table.

Table

<i>Nature of application</i>	<i>Original application fee (£)</i>	<i>Further application fee (£)</i>
M ₁ or N ₁ vehicle (but not an ACS vehicle)	199	40
M ₁ or N ₁ vehicle (where the vehicle is an ACS vehicle)	450	90
M ₂ vehicle	250	50
M ₃ vehicle	360	72
N ₂ or N ₃ vehicle	230	46
O ₁ or O ₂ vehicle	70	14
O ₃ or O ₄ vehicle	145	29
A vehicle which is type approved or individually approved by another Member State	100	25
Out of hours supplement	95	19

Regulation 6 sets out the requirements for which no fee will be payable in respect of a further application where a vehicle will be further examined before the end of the fifth day after the original examination.

Regulation 7 prescribes a fee of £100 in the circumstances specified which result in the non submission of a vehicle for examination but where notification of the vehicle non submission has been given to the approval authority. The balance of any sum previously paid in respect of the application shall be repaid unless another time is arranged for that examination.

Regulation 8 prescribes the fees for an appeal against the refusal of an original or further application. The fees payable shall be the same amount as the amount payable for an original application.

Regulation 9 prescribes a fee of £100 in the circumstances specified which result in the non submission of a vehicle for an appeal examination. The balance of any sum previously paid in respect of the appeal shall be repaid unless another time is arranged for that examination.

Regulation 10 prescribes the fees in the circumstances where the approval authority has not received prior notification of the fact that vehicle will not be submitted for examination as being the amounts prescribed by *regulations 4(1), (2) or (3) or 8*. Where the applicant has paid the fee in advance that amount will be retained by the approval authority. Otherwise the applicant shall pay the prescribed fee to the approval authority as it so directs.

Regulation 11 prescribes a fee of £25 for a replacement certificate.

Regulation 12 prescribes a fee of £1.10 in respect of a type approved vehicle which has been the subject of minor modification before its first registration.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Transport Technology and Standards Division, Department for Transport, Zone 2/01, Great Minister House, 76 Marsham Street, London, SW1P 4DR (telephone number: 020 7944 8300); or may be accessed via the Department's website at www.dft.gov.uk. A copy has been placed in the library of each House of Parliament. The impact assessment is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website www.opsi.gov.uk.

A copy of the Regulations referred to in these Regulations may be obtained from the Stationery Office (telephone: 0870 2600 5522, website www.tsoshop.co.uk).

A copy of Directive 2007/46/EC may be obtained from the Stationery Office or viewed in the Official Journal of the European Union via the EU website at www.europa.eu.int/eur-lex.

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STATUTORY INSTRUMENTS

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The Road Vehicles (Individual Approval) (Fees) Regulations
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£5.50