

**EXPLANATORY MEMORANDUM TO
THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT)
REGULATIONS 2010**

2010 No. 312

AND

**THE MOTOR VEHICLES (DESIGNATION OF APPROVAL MARKS)
(AMENDMENT) REGULATIONS 2010**

2010 No. 313

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations complete the implementation of Directive 92/23/EEC as amended by Directive 2001/43/EC. Directive 2001/43/EC introduced for the first time noise limits for tyres fitted to motor vehicles in two stages, the first covering tyres fitted to new vehicles, the second covering replacement tyres.

2.2 The first stage was transposed by Statutory Instrument 2002 No. 1835 The Motor Vehicles (EC Type Approval) (Amendment) Regulations 2002.

2.3 The second stage has not yet been transposed and is the subject of these Regulations' Explanatory Memorandum.

2.4 Amendments to two sets of Regulations are required.

2.5 The Road Vehicles (Construction and Use) (Amendment) Regulations 2010 are amended to specify the tyres to which the Regulations apply, those which are exempt, and include the requirement to mark the tyre sidewall with an "S" that shows compliance with the noise limit values. The noise limit values themselves are given by reference to Directive 92/23/EEC as amended by Directive 2001/43/EC and the equivalent UNECE (United Nations Economic Commission for Europe) Regulation.

2.6 The Motor Vehicles (Designation of Approval Marks) (Amendment) Regulations 2010 are amended to designate the letter "S" marking on the tyre sidewall to show compliance with the noise limits.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative context

- 4.1 Construction standards for most new road vehicles within the EU are regulated by ‘type approval’ Directives. These Directives define mandatory requirements on safety and environmental performance e.g. braking system efficiency, maximum permissible air pollutant emissions etc. Directive 92/23/EEC defined mandatory requirements for tyres fitted to new vehicles to ensure that tyres were safe for operation at the vehicle speeds and loads for which they are marketed.
- 4.2 Directive 2001/43/EC required that from 4 February 2005 tyres fitted to all new vehicles had to meet specified noise limits and bear a sidewall marking to show compliance with those limits. This marking is a suffix “S” to the type-approval number that is moulded onto / into the sidewall. These requirements were implemented by Statutory Instrument 2002 No. 1835 The Motor Vehicles (EC Type Approval) (Amendment) Regulations 2002.
- 4.3 In addition to the requirements for tyres fitted to new vehicles, Directive 2001/43/EC required replacement tyres to be type approved to the same noise limits from 1 October 2009 for passenger car tyres of section width up to and including 185 mm (so-called Classes C1a, C1b and C1c), medium commercial vehicle tyres (Class C2) and heavy commercial vehicle tyres (Class C3). Passenger car replacement tyres of section width greater than 185 and up to and including 215 mm (Class C1d) have to meet the requirements from 1st October 2010. Passenger car replacement tyres of section width greater than 215 mm (Class C1e) have to meet the requirements from 1st October 2011.
- 4.4 These two sets of Regulations implement these requirements by imposing controls on the supply of replacement tyres.
- 4.5 These two sets of Regulations are made in exercise of the powers conferred by sections 41 and 80 of the Road Traffic Act 1988.

5. Territorial Extent and Application

- 5.1 The Road Vehicles (Construction and Use) (Amendment) Regulations 2010 extends to Great Britain, and The Motor Vehicles (Designation of Approval Marks) (Amendment) Regulations 2010 to the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

• What is being done and why

- 7.1 Road traffic is a major contributor to environmental noise particularly in urban areas. According to the Dutch research institute CE Delft¹, in 2000, more than 44% of the EU25 (27 Member States of the EU, but excluding Malta and Cyprus) population (about 210 million people) were regularly exposed to over 55 dB of road traffic noise, a level potentially dangerous to health. They estimated that road traffic noise caused annoyance to around 57 million people, 42% of them seriously. Their preliminary analysis suggested that each year over 245,000 people in the EU25 are affected by cardiovascular disease that can be linked to exposure to excessive traffic noise levels.
- 7.2 The first European harmonised noise requirements for road vehicles were introduced in 1970 by Directive 70/157/EEC relating to the permissible powertrain and exhaust sound level of four wheel motor vehicles.
- 7.3 Directive 2001/43/EC complements the measures taken in Directive 70/157/EEC by introducing limits on the rolling noise of tyres. The Directive proposed an initial set of limits to be followed by two further reductions subject to confirmation by studies to be carried out after the Directive was published. The limit values being applied here relate only to the initial limits and not the subsequent two reductions, which were not confirmed, but have been superseded by limits included in the recent EU General Vehicle Safety Regulation².
- 7.4 These Regulations will bring the noise limits for replacement tyres into line with those that have been in place for new tyres since February 2005.

• Consolidation

- 7.5 Not applicable. These Regulations amend existing Regulations and bring into regulation an area previously unregulated (noise requirements for replacement tyres).

8. Consultation Outcome

- 8.1 A statutory public consultation was undertaken between 29 October 2009 and 10 December 2009.
- 8.2 The consultation asked whether the assessments of costs and benefits, and of the impacts on small businesses were reasonable; whether the assessment of unsold tyre stocks was reasonable, and whether the enforcement process was appropriate and adequate. The consultees were generally content with the findings of the Impact Assessment in terms of costs and benefits. The UK tyre manufacturing industry believed the number of unsold tyres that would become non-compliant may have been over-estimated. Industry thought that the legislation will bring a level playing field to

1 **Traffic noise reduction in Europe** Health effects, social costs and technical and policy options to reduce road and rail traffic noise; CE Delft, March 2007

2 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:200:0001:0024:EN:PDF> OJ L 200 31.7.2009 p

1 Regulation (EC) 661/2009

Europe in relation to tyre quality. The freight transport industry was concerned that the method of applying the Directive by way of amendments to the Construction and Use Regulations and the Designation of Approval Marks Regulations would prohibit fitting on tyres purchased before the dates specified in the Directive. One comment was received supporting prosecution via the court system rather than by out of court disposal. This concern has been addressed by editing the text in the draft regulation to clarify the issue.

- 8.3 Fuller details of comments received on this and on other issues, and the Department's response to these may be found at www.dft.gov.uk/consultations/closedconsultations.

9. Guidance

- 9.1 The Department has informed the tyre manufacturer's, importer's and distributor's trade associations of the Regulations. They understand the requirements of the EU legislation, which have been in place for some time, and have informed their members of the implications of these Regulations. The Department has tasked the Vehicle Certification Agency (VCA), who will enforce the Regulations, to also prepare literature aimed at the small retailer, especially those who are not members of trade associations, to inform them of the implications of these Regulations.

10. Impact

- 10.1 An Impact Assessment is attached to this Memorandum.
- 10.2 There is no impact on the public sector other than the additional cost of enforcement which is mentioned in the Impact Assessment.

11. Regulating small business

- 11.1 The effect on small business is dealt with in the Impact Assessment.

12. Monitoring and Review

- 12.1 This will be undertaken by the VCA as part of their enforcement duties.

13. Contact

Eur Ing Robert Falk at the Department for Transport (tel: 020 7944 2077 or robert.falk@dft.gsi.gov.uk) can answer any queries regarding the instruments.

Summary: Intervention & Options

| | | |
|------------------------------|--|------------------------------|
| Department /Agency: | Title: Impact Assessment of transposition of Council Directive 2001/43/EC relating to replacement tyres | |
| Stage: Final | Version: 2 | Date: 1 February 2010 |
| Related Publications: | | |

Available to view or download at:

<http://www.dft.gov.uk/consultations/aboutia/fria/>

Contact for enquiries: Eur Ing Robert Falk

Telephone: 020 7944 2077

What is the problem under consideration? Why is government intervention necessary?

Member States shall bring into force the laws, regulations and administrative provisions necessary in order to comply with Directive 2001/43/EC. The UK has only partly fulfilled these requirements, but is now attending to those that are outstanding. Failure to transpose the remaining parts of the Directive could lead to the European Commission bringing infraction proceedings against the UK or result in unfair competition in the replacement tyre market.

What are the policy objectives and the intended effects?

To transpose that part of Directive 2001/43/EC relating to tyre noise limits for replacement tyres that tyres fitted to new vehicles have had to comply with since 2005. The supply and sale of tyres that do not comply with the requirements of the Directive will become illegal after the legislation is in place.

What policy options have been considered? Please justify any preferred option.

Of two options available, the option chosen is to transpose the remaining parts of the Directive rather than not transposing them.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

As there is likely to be only a short term transitional cost to ensure compliance across the industry, there are no immediate plans to review costs and benefits. However the legislation is likely to require review and amendment by 2014 to implement subsequent EU tyre noise requirements.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Sadiq KhanDate: 9th February 2010

Summary: Analysis & Evidence

| | |
|-------------------------|--|
| Policy Option: 1 | Description: Transposition of remaining parts of Directive 2001/43/EC |
|-------------------------|--|

| | | | | | |
|--|---|------------|--|------------------------|------------------|
| COSTS | ANNUAL COSTS | | Description and scale of key monetised costs by 'main affected groups' Estimated costs for increasing industry awareness of new requirements and ongoing compliance checking | | |
| | One-off (Transition) | Yrs | | | |
| | £ 19,000 | 1 | | | |
| | Average Annual Cost (excluding one-off) | | | | |
| | £ 95,000 | 4 | | Total Cost (PV) | £ 380,000 |
| Other key non-monetised costs by 'main affected groups' | | | | | |

| | | | | | |
|---|--|------------|---|---------------------------|------------|
| BENEFITS | ANNUAL BENEFITS | | Description and scale of key monetised benefits by 'main affected groups' This Directive is not expected to deliver significant benefits as it is anticipated that the vast majority of tyres are already compliant. However it will ensure a level playing field for tyre suppliers by prohibiting the sale of lower quality, non-compliant tyres. | | |
| | One-off | Yrs | | | |
| | £ 0 | | | | |
| | Average Annual Benefit (excluding one-off) | | | | |
| | £ 0 | | | Total Benefit (PV) | £ 0 |
| Other key non-monetised benefits by 'main affected groups' | | | | | |

Key Assumptions/Sensitivities/Risks

Risk to Government of infraction if the Directive transposition is not completed. Risk to industry of holding non-compliant stock from the date that legislation approved by Parliament is in place.

| | | | |
|-------------------------|------------------------|-------------------------------------|--|
| Price Base Year 2009 | Time Period Years 4 | Net Benefit Range (NPV) £ | NET BENEFIT (NPV Best estimate) £ 380,000 |
|-------------------------|------------------------|-------------------------------------|--|

| | | | | | |
|---|--|-------|-------|----------------|-------|
| What is the geographic coverage of the policy/option? | | | | United Kingdom | |
| On what date will the policy be implemented? | | | | 2010 | |
| Which organisation(s) will enforce the policy? | | | | VCA | |
| What is the total annual cost of enforcement for these organisations? | | | | £ 95,000 | |
| Does enforcement comply with Hampton principles? | | | | Yes | |
| Will implementation go beyond minimum EU requirements? | | | | No | |
| What is the value of the proposed offsetting measure per year? | | | | £ | |
| What is the value of changes in greenhouse gas emissions? | | | | £ | |
| Will the proposal have a significant impact on competition? | | | | No | |
| Annual cost (£-£) per organisation (excluding one-off) | | Micro | Small | Medium | Large |
| Are any of these organisations exempt? | | No | No | N/A | N/A |

| | | | | | |
|---|---|-------------|-----------------------|-------------------|------------|
| Impact on Admin Burdens Baseline (2005 Prices) | | | (Increase - Decrease) | | |
| Increase of | £ | Decrease of | £ | Net Impact | £ 0 |

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. Title

Transposition of Council Directive 92/23/EEC of 31 March 1992 relating to tyres for motor vehicles and their trailers and to their fitting as amended by Directive 2001/43/EC of the European Parliament and of the Council of 27 June 2001 in so far as it applies to replacement tyres.

2. Purpose and intended effect

Objective

Directive 2001/43/EC³ introduced for the first time limit values for rolling noise from tyres by way of an amendment to Directive 92/23/EEC⁴. To show tyres have been type approved to the requirements, the tyre sidewall also needs to be marked with an “S”. The Directive applies only to tyres fitted to new vehicles or sold as replacements for use on vehicles registered for the first time after 1 October 1980. Notable exclusions are all retreaded and all part-worn tyres, and tyres for rim size 254 mm (code 10) and below or 635 mm and above (code 25).

When the Directive was negotiated it phased-in the introduction, firstly to tyres fitted to new vehicles, then to replacement tyres to ensure industry would be able to manage the transition to manufacture tyres that must meet a noise limit.

The UK has transposed that part of Directive 2001/43/EC relating to tyres fitted to new vehicles. Those requirements came into force on 4 February 2005⁵.

The Directive calls for replacement tyres to meet the same noise limits that apply to tyres fitted to new vehicles in three tranches, the first from 1 October 2009, then 1 October 2010, and finally 1 October 2011 depending on the tyre class and size. Due to the delay in transposing these requirements in the UK replacement tyres from the first tranche will have to comply with the noise limit values and be “S” marked from the date the UK regulations enter into force rather than 1 October 2009. The delay of 4½ to 6½ years for replacement tyres to meet the noise limits was planned to give manufacturers time to develop and supply compliant tyres for the replacement market. The replacement market is many times larger than that for tyres fitted to new vehicles.

3. Background

The Directive aligns the requirements on noise limit values, markings, and dates with those given in UNECE Regulation No 117. The text of the Directive states that with effect from 1 October 2009, the provisions of Directive 92/23/EEC as amended by Directive 2001/43/EC, shall apply for the purposes of Article 7(2) of Directive 70/156/EC, to all tyres which fall within the scope of Directive 92/23/EEC, with the exception of tyres of classes C1d and C1e, to which they shall apply as from 1 October 2010 and 1 October 2011 respectively.

3 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:211:0025:0046:EN:PDF> DIRECTIVE 2001/43/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 27 June 2001 amending Council Directive 92/23/EEC relating to tyres for motor vehicles and their trailers and to their fitting

4 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0023:EN:HTML> Council Directive 92/23/EEC of 31 March 1992 relating to tyres for motor vehicles and their trailers and to their fitting

5 http://www.opsi.gov.uk/si/si2002/uksi_20021835_en.pdf Statutory Instrument 2002 No 1835 ROAD TRAFFIC The Motor Vehicles (EC Type Approval) (Amendment) Regulations 2002

Tyres in Class C1 are intended to be fitted to cars (and some light vans derived from cars), those in C2 to medium duty commercial vehicles, and those in C3 to heavy duty commercial vehicles. The provisions also apply to the tyres fitted to trailers in the respective groups.

The noise limit values that all tyres fitted to newly-registered vehicles and replacement tyres now have to meet are shown in the Tables 1 and 2 below:

Table 1 Noise limit values for C1 tyres

| Tyre class | Nominal section width mm | Limit value dB(A) | Applies to replacement tyres from |
|------------|-----------------------------|----------------------|-----------------------------------|
| C1a | ≤ 145 | 72 | (1 October 2009) * |
| C1b | > 145 ≤ 165 | 73 | (1 October 2009) * |
| C1c | > 165 ≤ 185 | 74 | (1 October 2009) * |
| C1d | > 185 ≤ 215 | 75 | 1 October 2010 |
| C1e | > 215 | 76 | 1 October 2011 |

Note: * Whilst the Directive calls for compliance from 1 October 2009, effectively, the compliance date will be the date legislation is in place in the UK

For reinforced (or Extra Load) tyres, the limit values shown in the table above shall be increased by 1 dB(A), and for tyres classified in category of use "Special" limit values shown in the table above shall be increased by 2 dB(A).

The limit values shown in Table 1 above are those shown in the first of three columns of the table at paragraph 4.2.1 in a new Annex V inserted into Directive 92/23/EEC by the amending Directive 2001/43/EC. The reason that the values of only the first column have been applied is that the European Commission's review of limit values in the second and third columns of the table in Annex V was delayed, and those tentative limits were not implemented. Nevertheless, the results from that review informed new limit values incorporated into Regulation EC No 661/2009⁶.

The limit values for tyres in classes C2 and C3 are given in the table below:

Table 2 Noise limit values for C2 and C3 tyres

| Category of use | Limit value for C2 tyres dB(A) | Limit value for C3 tyres dB(A) | Applicable from |
|-------------------|-----------------------------------|-----------------------------------|--------------------|
| Normal tyres | 75 | 76 | (1 October 2009) * |
| Snow tyres | 77 | 78 | (1 October 2009) * |
| Special use tyres | 78 | 79 | (1 October 2009) * |

Note: * Whilst the Directive calls for 1 October 2009, effectively, the implementation date will be the date legislation is in place in the UK

4. Market volume

The Department has been in contact with the UK's three major tyre trade organisations, BTMA (British Tyre Manufacturers' Association), ITMA (Imported Tyre Manufacturers' Association) and NTDA (National Tyre Distributors Association). BTMA represents 8 leading tyre manufacturers. ITMA represents 12 organisations and NTDA 320 individual companies representing some 2,800 of approximately 14,000 tyre retail outlets. The market information has been sourced from these organisations.

Approximately 35 million tyres comprising some 280 brands were sold in the UK in 2006-07, the most recent year for which data are available. Of these, approximately 31 million were C1, 2.6 million were C2, and 1.4 million were C3⁷. Of the C1 tyres, some 40% were of size 185 and below, and 47% were of size greater than 185 mm and up to 215 mm, and the balance of 13% of size greater than 215 mm. This means that all of the C2 and C3 tyres plus just under half of the C1 market has to comply as soon as legislation is in place in the UK.

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:200:0001:0024:EN:PDF> REGULATION (EC) No 661/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor

⁷ Source BTMA and ITMA

In 2006-2007 about 44% of the C1 tyres were imported, based on data obtained from ITMA. The quantity of imports including van tyres (C2) may be as high as 50% because many tyres are imported direct by the non-affiliated organisations. This group of tyres is thought to present the largest problem of potential non-compliance.

The requirements of the Directive have been known by industry since it was published in 2001. Industry estimated at mid 2009 that about 2m to 3m tyres were in stock that would become non-compliant on 1 October 2009. Current thinking suggests perhaps one fifth of that number may still be in stock, namely, 400 to 600 thousand. The number of non-compliant tyres in stock should continue to decline as the date of entry into force of the Regulations approaches.

5. Options

The Government has two options available, not to transpose the remaining elements of the Directive, or to transpose now.

6. Costs and benefits

Costs

During the negotiation of Directive 2001/43/EC the Department carried out a regulatory impact assessment. That assessment suggested that where increased costs are incurred these would translate into retail increases of 2-5% giving extra vehicle lifetime costs of £6.36 - £33 for cars and £180 - £576 for lorries. However, currently, with price discounting at the retail level, the likelihood of these costs having to be met by the motorist is thought to be small.

Furthermore the assumption is made that industry has now largely amortised the cost of any redesign of tyres. Thus, there are no additional development costs to manufacturers relating to transposition of those parts of the Directive that relate to replacement tyres.

Based on information provided to date we anticipate that currently remaining stocks of tyres that do not comply with the requirements of the Directive are likely to have been sold before the date regulations are in place (estimated to be early in 2010). In the event that tyres did need to be scrapped, the cost to industry may be calculated as follows. The wholesale value of tyres lies between £30 and £50 each. A worst case scenario is that around 400 to 600 thousand will remain non-compliant and the value lost through scrappage would lie between about £13m and £31m including scrappage fees. However, realistically, given that the industry has been made aware of the new requirements, the most likely scenario is that minimal stock will remain with nil scrappage cost to industry.

Enforcement costs are likely to consist of a one-off cost of around £19,000 to educate industry on the requirements of the regulation in advance of implementation and an annual cost of around £95,000 (until 2012) to cover visits to manufacturers, importers, wholesalers and dealers to assess compliance.

Benefits

Directive 2001/43/EC called for a review of the proposed second and third stage limits for C1 tyres given in the second and third columns of the table at 4.2.1 in Annex V of Directive 92/23/EEC. That study was carried out by FEHRL (Forum of European National Highway Research Laboratories)⁸ who concluded that only a small percentage of the tyres on the market at the beginning of the 1990s exceeded the limits to be established as the first stage by the Directive. FEHRL quoted about 9% of car tyres (C1), 17% of van tyres (C2) and 7% of truck tyres (C3) would not meet the limits whilst TRL⁹ reported that about 80% of the tyres would meet the limits, ie, 20% would not.

Given that these studies were conducted a number of years ago, it is now expected that the level of compliance should be much greater than 80% of tyres on the market.¹⁰ Therefore, any benefits are likely to be extremely small. The tightening of the limits to the second and third stages that the Directive proposed, and that were subject to review, will now be made through Regulation EC No 661/2009¹¹ for which a separate impact assessment was prepared when developing the UK's negotiating position¹².

8 http://ec.europa.eu/enterprise/automotive/projects/report_tyre_road_noise2.pdf FEHRL report Study SI2.408210 Tyre/Road Noise Volume 2 Appendices

9 <http://www.dft.gov.uk/pgr/roads/environment/research/cqv/cf/tyrenoise/tyreroadnoisereport.pdf> Tyre/road noise – Assessment of the existing and proposed tyre noise limits TRL report PPR 077

10 There may be still some tyres imported from outside the EU that are either compliant but not marked appropriately, or non-compliant.

11 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:200:0001:0024:EN:PDF> REGULATION (EC) No 661/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor

12 <http://www.dft.gov.uk/consultations/closed/motorvehiclessafety/ia.pdf> Impact Assessment of proposed regulation on general vehicle safety

7. Risks

Risks have been identified in two sectors, Government and industry.

Government risks infraction by the European Commission for late transposition. Through oversight Government is only now transposing the parts of the Directive that relate to replacement tyres. Any further delay in transposing the requirements of a Directive into UK legislation increases the risk of infraction by the European Commission.

Industry's risk is being left with stocks of tyres that are not "S" marked, and which will become non-compliant through two routes. The first route is slow-moving stock already in place that may remain unsold after UK legislation is in place, and the second is wholesalers and retailers re-stocking with tyres that are not "S" marked. The first may be overcome by exporting any remaining non-compliant tyres, the second by industry ordering replacement stock that complies with the requirements of the Directive. The likelihood of the supply chain having non-compliant tyres remaining in stock through the first route by the time legislation is in place is thought to be small.

8. Sectors and Groups affected

a. Competition Assessment

The sectors affected by the proposal are the UK tyre manufacturers and the supply chain for tyres. Any delay in implementing the requirements of the Directive will distort the market for tyres because of the additional time afforded to the non "S" marked sector, mainly from imports, to continue to supply and sell non-compliant stock in the UK. The extra time may even permit stocks to be imported in the interim from other Member States who have transposed fully the requirements of the Directive. These imports may displace premium quality tyres that are already compliant because they have been supplied to the manufacturers of new vehicles since 2005.

That part of the supply chain represented by ITMA and NTDA (importers and dealers who may also be importing) is aware that legislation would not be in place on 1 October 2009, but have not expressed concerns over the delay. We understand that they have warned their members not to import non-compliant tyres from other Member States because of the danger of being left with stock that will be non-compliant from the date legislation is in place. They have also informed their members to restock with tyres that are "S" marked, and to convert existing orders to "S" marking if not already specified.

The BTMA has expressed concern that market distortion may occur through non-compliant tyres coming to the UK that would otherwise not have done so, and those tyres may displace sales the premium market may otherwise have secured. They are understandably concerned that they have invested heavily to comply with the requirements of the Directive to sell into the new car market but that the replacement market has not had to make that investment until now.

b. Small Firms Impact Assessment

Many of the tyre retailers are small firms who may be adversely affected if the stock they hold becomes non-compliant on the due date. However, as discussed above, the likelihood of this happening is thought to be small.

9. Enforcement, Sanctions & Monitoring

The VCA (Vehicle Compliance Agency) will enforce the Regulation by inspecting tyre sidewall markings at tyre importers, distributors and retailers. Indicative costs to enforce the requirements of the Directive are likely to be a one-off cost of £19 000 plus £95 000 a year for each of four years. Penalties for non-compliance will be a fine up to level 5 (currently £5,000) on the standard scale.

10. Consultation

a. Within Government

The Department has developed the proposed regulations in co-operation with other Government Departments with a key interest in the method of policing and the level of penalty in case of being found guilty of contravening the legislation. Departments consulted include the Ministry of Justice, the Home Office and the devolved administrations. These departments are content with the proposals.

b. Public Consultation

The Department has maintained informal discussions with stakeholders in industry to develop the first issue of this impact assessment and its initial position on the transposition of the Directive.

The Department will conduct a formal public consultation on the implementation of the Directive in due course.

11. Legal Aid

It is not anticipated that the introduction of this Regulation would either increase or decrease the work of the courts. In consequence, no impact upon the legal aid budget is anticipated.

12. Sustainable Development

The impact of this measure upon sustainable development is expected to be small.

13. Environmental Impacts

The proposal may reduce road traffic noise.

14. Health Impacts

Some health improvements resulting from the reductions in noise should flow from implementation of the legislation.

15. Race Equality

There are no race equality issues associated with this measure.

16. Disability Equality

There are no disability equality issues associated with this measure. No disproportionate costs are expected to be borne by owners of vehicles adapted for the use of disabled drivers over and above the costs borne by all motorists for consumables such as tyres.

17. Gender Equality

There are no gender equality issues associated with this measure.

18. Human Rights

The measure will not impinge upon human rights in the areas of privacy, property, freedom to choose and practice a profession, and the right to a fair hearing.

19. Rural Proofing

There should be no increases in costs to rural communities over and above the costs borne by all motorists for consumables such as tyres.

20. Summary & Recommendation

That the Statutory Instrument be laid before Parliament at the earliest possible time to reduce the risk of infraction by the European Commission.

21. Contact point for enquiries and comments

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Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|-----------------------------------|---|--------------------------------|
| Competition Assessment | Yes | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | Yes | No |
| Sustainable Development | No | No |
| Carbon Assessment | No | No |
| Other Environment | No | No |
| Health Impact Assessment | No | No |
| Race Equality | No | No |
| Disability Equality | Yes | No |
| Gender Equality | No | No |
| Human Rights | No | No |
| Rural Proofing | No | No |

Annexes

TRANSPOSITION NOTE

This Transposition Note is produced to accompany The Road Vehicles (Construction and Use) (Amendment) Regulations 2010 and shows how the Department has transposed:

Paragraph 5 of Article 10a of Directive 92/23/EEC inserted by Directive 2001/43/EC

For the purpose of this note:-

“Directive” means Directive 92/23/EEC as amended by Directive 2001/43/EC.

“Directive 92/23/EEC” means Directive 92/23/EEC of the European Parliament and of the Council of 31 March 1992 relating to tyres for motor vehicles and their trailers and to their fitting.

“Directive 2001/43/EC” means Directive 2001/43/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 92/23/EEC relating to tyres for motor vehicles and their trailers and to their fitting.

“2010 Regulations” means The Road Vehicles (Construction and Use) (Amendment) Regulations 2010.

These Regulations do what is necessary to implement paragraph 5 of Article 10a of the Directive 92/23/EEC.

Directive 92/23/EEC as amended by Directive 2001/43/EC

| Article | Objectives | Implementation | Responsibility |
|----------------------------|---|--|------------------------|
| Article 1a | Defines the scope of the Directive | Regulation 25A (3) inserted by Regulation 3 of the 2010 Regulations exempts tyres which are outside the scope of the Directive. | The Secretary of State |
| Paragraph 5 of Article 10a | States that the provisions of the Directive apply for the purposes of Article 7(2) of Directive 70/156/EEC, which prohibits the sale or entry into service of tyres that do not meet the requirements of the Directive. | <p>The Motor Vehicles (EC Type Approval) (Amendment) Regulations 2002 prohibited tyres that do not meet the requirements of the Directive from being fitted to new vehicles entering into service.</p> <p>Regulation 25A (1) inserted by Regulation 3 of the 2010 Regulations prohibits the fitting of replacement tyres that do not meet the requirements of the Directive. The sale of such tyres is prohibited by section 76 Road Traffic Act 1988.</p> | The Secretary of State |
| | Sets out the dates from which “all tyres which fall within the scope of this Directive” must comply with the noise limit values set out in Annex V of the Directive. | This provision is implemented by Regulation 25A (2) inserted by Regulation 3 of the 2010 Regulations. | |

Directive 92/23/EEC as amended by Directive 2001/43/EC

| Article | Objectives | Implementation | Responsibility |
|----------------|--|--|-----------------------|
| | <p>The term “all tyres” means that replacement tyres will also have to comply with the noise limit values as demanded by paragraph 4 of Article 10a of the Directive where previously only tyres fitted to new vehicles had to comply.</p> | <p>Regulation 25A (1) inserted by Regulation 3 covers replacement tyres, specifies to which vehicles the 2010 Regulations apply and that the tyres must be type-approved and appropriately marked.</p> <p>Regulation 25A (2) specifies the implementation dates for certain tyre categories where these are later than the entry into force date of the regulations.</p> | |