

**2011 No. 2134**

**ENVIRONMENTAL PROTECTION**

**The Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2011**

|                               |         |                            |
|-------------------------------|---------|----------------------------|
| <i>Made</i>                   | - - - - | <i>30th August 2011</i>    |
| <i>Laid before Parliament</i> |         | <i>1st September 2011</i>  |
| <i>Coming into force</i>      | - -     | <i>30th September 2011</i> |

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a). The Secretary of State is designated(b) for the purposes of that provision of the Act in relation to the environment.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2011.

(2) These Regulations come into force on 30th September 2011.

**Amendment of Regulations**

2.—(1) The Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999(c) are amended as follows.

(2) In regulation 2(1)(a) for “Council Directive 2006/105/EC” substitute “Commission Directive 2010/26/EU”(d).

(3) In regulation 2(1B) before “same” insert “the”.

(4) In regulation 6A(6) for “The” substitute “Subject to paragraph (6A), the”.

(5) After regulation 6A(6) insert—

- 
- (a) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51) and the European Union (Amendment) Act 2008 (c.7). By virtue of the amendment of section 1(2) of the 1972 Act by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under section 2(2) of the 1972 Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).
- (b) S.I. 2008/301.
- (c) S.I. 1999/1053. Relevant amendments were made by S.I. 2002/1649, 2004/2034, 2006/29 and 2008/2011.
- (d) O.J. L86, 1.4.2010, p.29. Directive 97/68/EC has been amended by Commission Directive 2001/63/EC (O.J. L227, 23.8.2001, p.41), European Parliament and Council Directive 2002/88/EC (O.J. L35, 11.2.2003, p.28), European Parliament and Council Directive 2004/26/EC (O.J. L146, 30.4.2004, p.1, corrected by O.J. L225, 25.6.2004, p.3), Council Directive 2006/105/EC (O.J. L363, 20.12.2006, p.368), European Parliament and Council Regulation (EC) No 596/2009 (O.J. L188, 18.7.2009, p.14) and Commission Directive 2010/26/EU. Directive 97/68/EC was added to Annex II of the EEA Agreement by article 1 of the Decision of the EEA Joint Committee No 115/1999 of 24th September 1999 (O.J. L325, 21.12.2000, p.29).

“(6A) Where machinery referred to in the final sentence of paragraph 7 of article 9a of Directive 97/68/EC complies with the requirements of regulation 4(2)(f) and is not manufactured by a small volume engine manufacturer, it shall—

- (a) before 1st August 2013 be exempt from the requirements of regulation 6(4); and
- (b) before 1st February 2014 be exempt from the requirements of regulation 4(2)(g).”

(6) In regulation 17(a) for “a new” substitute “an”.

(7) After regulation 21 insert—

**“Review**

**22.**—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 97/68/EC (which is implemented in the United Kingdom by these Regulations) is implemented in other member States.

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which the objectives are achieved;
- (c) assess whether the objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) “Review period” means—

- (a) the period of five years beginning with 30th September 2011; and
- (b) subject to paragraph (5), each successive period of five years.

(5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.”

(8) In paragraph 13 of Schedule 9—

- (a) at the end of sub-paragraph (1)(a) add “and”;
- (b) for sub-paragraph (1)(b) and (c) substitute—

“(b) comply with a request by a competent approval authority in an EEA State for information that the authority requires in order to confirm that any engine claimed to be, or labelled as being, placed on the market under a flexibility scheme is properly so claimed or labelled.”;

- (c) omit sub-paragraphs (2) and (3).

Signed by authority of the Secretary of State for Transport

*Norman Baker*  
Parliamentary Under Secretary of State  
Department for Transport

30th August 2011

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 implemented Directive 97/68/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery. The Directive has been amended, most recently by Commission Directive 2010/26/EU. These Regulations amend the 1999 Regulations so as to implement these latest amendments of the Directive.

The effect of *regulation 2(2)* is to update the references in the 1999 Regulations to the Annexes of the Directive, so that they include the latest amendments. Amendments have been made to the type approval requirements applying to mobile machinery with compression ignition (“CI”) engines for stages IIIB and IV. These amendments are consequential on the development of new electronically controlled fuel injection systems. Amendments have been made to the information which must be submitted to the type approval authority with an application for engine type approval. These amendments adapt general requirements relating to anti-pollution devices to reflect the fact that specific after-treatment systems need to be used to ensure compliance with exhaust emission limit stages IIIB and IV. Other amendments made include changes to the test procedures for engines and the technical characteristics of the reference fuel for CI engines for stages IIIB and IV.

*Regulation 2(4) and (5)* extends the temporary exemption for the type approval and placing on the market of certain hand-held machinery with spark ignition engines which do not comply with the stage II emission limits. *Regulation 2(3) and (6)* corrects minor drafting errors in previous amendments of the 1999 Regulations. *Regulation 2(7)* provides for review of the operation and effect of the 1999 Regulations. Reviews by the Secretary of State will take place at five yearly intervals. *Regulation 2(8)* alters the notification requirements applying where machinery is placed on the market under transitional arrangements (“flexibility schemes”) for a limited number of engines meeting the previous stage of emission limit values.

A full impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector has been prepared by the International Vehicle Standards Division, Department for Transport, Zone 1/34, Great Minster House, 76 Marsham Street, London SW1P 4DR. A Transposition Note setting out how Directive 2010/26/EU has been transposed into UK law has also been prepared by the International Vehicle Standards Division. The Impact Assessment, the Transposition Note and an Explanatory Memorandum have been published alongside the Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk). A copy has been placed in the library of each House of Parliament. The Directives referred to in this explanatory note may be viewed on the Eur-lex website ([www.eur-lex.europa.eu/en/index.htm](http://www.eur-lex.europa.eu/en/index.htm)).

---

© Crown copyright 2011

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

---

STATUTORY INSTRUMENTS

---

**2011 No. 2134**

**ENVIRONMENTAL PROTECTION**

The Non-Road Mobile Machinery (Emission of Gaseous and  
Particulate Pollutants) (Amendment) Regulations 2011

£4.00

E1212 09/2011 111212T 19585

ISBN 978-0-11-151486-3



9 780111 514863