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STATUTORY INSTRUMENTS

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**2020 No. 818**

**The Road Vehicles (Approval) Regulations 2020**

**PART 2**

[<sup>F1</sup>Type-approval]

**Defeat systems**

**14.**—(1) A person who is a manufacturer commits an offence if a motor vehicle manufactured by that person—

- (a) is placed on the market or registered in [<sup>F1</sup>Great Britain or, as the case may be, Northern Ireland, and]
- (b) that motor vehicle is fitted with a defeat system which is not permitted.

(2) A separate offence under paragraph (1) is committed in respect of each such motor vehicle placed on the market or registered.

(3) A defeat system is not permitted unless—

- (a) in the case of a motor vehicle [<sup>F2</sup>which is of a type approved in accordance with Regulation (EC) 595/2009 or EU Regulation (EC) 595/2009], the fitting and operation of the defeat system is explained in the extended documentation package submitted by the manufacturer to the approval authority [<sup>F3</sup>or the approval authority of a member State] (as defined in Article 3(36) of the [<sup>F4</sup>EU Type Approval Regulation]) when applying for emissions type approval for that vehicle, or
- (b) in the case of a motor vehicle [<sup>F5</sup>which is of a type approved in accordance with Regulation (EC) 715/2007 or EU Regulation (EC) 715/2007]—
  - (i) its use falls within one of the exceptions listed in Article 5(2)(a) to (c) of [<sup>F6</sup>the Regulation in accordance with which the type was approved], and
  - (ii) in respect of a motor vehicle submitted for emissions type approval after 16th May 2016, the fitting and operation of the defeat system is explained in the documentation package submitted by the manufacturer to the approval authority [<sup>F7</sup>or the approval authority of a member State] (as defined in Article 3(36) of the [<sup>F8</sup>EU Type Approval Regulation]) when applying for emissions type approval for that vehicle.

(4) Where, following examination of motor vehicles associated with [<sup>F9</sup>an applicable type-approval], the approval authority is satisfied that two or more of those motor vehicles—

- (a) are vehicles for which [<sup>F10</sup>a] certificate of conformity has been issued in respect of that approval, and
- (b) are fitted with a defeat system which is not permitted,

each motor vehicle associated with [<sup>F11</sup>that applicable type-approval] is to be taken to be similarly fitted with a defeat system which is not permitted unless proved otherwise by the manufacturer.

- [<sup>F12</sup>(5) In paragraph (4)—
- (a) “applicable type approval” means—
    - (i) an EU whole-vehicle type approval or an EU small series type-approval, whether or not issued by the Secretary of State, or
    - (ii) a GB whole-vehicle type-approval or a GB medium series type-approval;
  - (b) a motor vehicle is associated with an applicable type approval if a certificate of conformity relating to that type approval has been issued in respect of that vehicle.]
- (6) A person who breaches a prohibition in paragraphs 9(1), (2) or 10(10) of Schedule 4 commits an offence.
- (7) In this regulation—
- “Commission Regulation (EC) No 692/2008” means Commission Regulation (EC) No 692/2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information <sup>M1</sup>;
- “Commission Regulation (EC) No 582/2011” means Commission Regulation (EC) No 582/2011 implementing and amending Regulation (EC) No 595/2009 of the European Parliament and of the Council with respect to emissions from heavy duty vehicles (Euro VI) and amending Annexes I and III to Directive 2007/46/EC of the European Parliament and of the Council <sup>M2</sup>;
- “Commission Regulation (EU) 2017/1151” means Commission Regulation (EU) 2017/1151 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information <sup>M3</sup>;
- “defeat system” means—
- (a) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies—
    - (i) where the engine system or engine family meets the conditions specified in Article 6(1a) of Commission Regulation (EC) No 582/2011, a “defeat strategy” as defined in paragraph 2 of UNECE Regulation 49;
    - (ii) in all other cases, a “defeat strategy” as defined in Article 3(8) of Regulation (EC) 595/2009,
 at the time of applying for emissions type approval for that vehicle;
  - (b) in the case of a motor vehicle to which Regulation (EC) 715/2007 applies—
    - (i) where, pursuant to Article 6(1) of Commission Regulation (EC) No 692/2008, the motor vehicle meets the requirements of Regulation (EC) 715/2007 by virtue of compliance with UNECE Regulation 83, a “defeat device” as defined in paragraph 2 of that UNECE Regulation;
    - (ii) in all other cases, a “defeat device” as defined in Article 3(10) of Regulation (EC) 715/2007,
 at the time of applying for emissions type approval for that vehicle;
  - (c) [<sup>F13</sup>in the case of a motor vehicle to which EU Regulation (EC) 595/2009 applies—
    - (i) where the engine system or engine family meets the conditions specified in Article 6(1a) of EU Commission Regulation (EU) No 582/2011, a “defeat strategy” as defined in paragraph 2 of UNECE Regulation 49;



- (b) in the case of a motor vehicle to which Regulation (EC) 595/2009 applies, the extended documentation package specified in Article 5(3) of, and Section 8 of Annex I to, Commission Regulation (EC) No 582/2011;
- (c) [<sup>F17</sup>in the case of a motor vehicle to which EU Regulation (EC) 715/2007 applies, the extended documentation package mentioned in—
- (i) Article 5(11) of EU Commission Regulation (EC) No 692/2008; or
- (ii) Article 5(11) of EU Commission Regulation (EU) 2017/1151;
- (d) in the case of a motor vehicle to which EU Regulation (EC) 595/2009 applies, the extended documentation package specified in Article 5(3) of, and Section 8 of Annex 1 to, EU Commission (EC) No 582/2011;]

“placed on the market” means supplying or making available, whether in return for payment or free of charge, to a third party, and includes exposure for sale to a third party;

“registered” means registered pursuant to section 21 of the 1994 Act;

“Regulation (EC) 715/2007” means Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) <sup>M5</sup>;

“Regulation (EC) 595/2009” means Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) <sup>M6</sup>.

#### Textual Amendments

- F1** Words in reg. 14(1)(a) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(a)**
- F2** Words in reg. 14(3)(a) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(i)(aa)**
- F3** Words in reg. 14(3)(a) inserted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(i)(bb)**
- F4** Words in reg. 14(3)(a) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(i)(cc)**
- F5** Words in reg. 14(3)(b) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(ii)(aa)**
- F6** Words in reg. 14(3)(b)(i) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(ii)(bb)**
- F7** Words in reg. 14(3)(b)(ii) inserted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(ii)(cc)**
- F8** Words in reg. 14(3)(b)(ii) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(b)(ii)(dd)**
- F9** Words in reg. 14(4) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(c)(i)**

- F10** Word in reg. 14(4)(a) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(c)(iii)**
- F11** Words in reg. 14(4) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(c)(ii)**
- F12** Reg. 14(5) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(d)**
- F13** Words in reg. 14(7) inserted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(e)(i)**
- F14** Word in reg. 14(7) omitted (31.12.2022 at 11.00 p.m.) by virtue of The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(e)(ii)(aa)**
- F15** Words in reg. 14(7) substituted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(e)(ii)(bb)**
- F16** Words in reg. 14(7) inserted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(e)(iii)**
- F17** Words in reg. 14(7) inserted (31.12.2022 at 11.00 p.m.) by The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022 (S.I. 2022/1273), regs. 1(2), **13(13)(e)(iv)**

#### Commencement Information

- I1** Reg. 14 in force at 1.9.2020, see reg. 1(b)

#### Marginal Citations

- M1** OJ No. L 199, 28.7.2008, p. 1.
- M2** OJ No. L 167, 25.6.2011, p. 1.
- M3** OJ No. L 175, 7.7.2017, p. 1.
- M4** Paragraph 11 was inserted by Commission Regulation (EU) 2016/646 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ No. L 109, 26.4.2016, p. 1).
- M5** OJ No. L 171, 29.6.2007, p. 1.
- M6** OJ No. L 188, 18.7.2009, p. 1.

**Changes to legislation:**

There are currently no known outstanding effects for the The Road Vehicles (Approval) Regulations 2020, Section 14.