

EXPLANATORY MEMORANDUM TO
THE MOTORCYCLES (TYPE-APPROVAL) REGULATIONS 2018

2018 No. 235

AND

THE AGRICULTURAL AND FORESTRY VEHICLES (TYPE-APPROVAL)
REGULATIONS 2018

2018 No. 236

1. Introduction

- 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 instruments

- 2.1 The purpose of these Regulations is to implement revised European Regulations for the type approval¹ of Motorcycles and Agricultural vehicles, and in particular to create domestic penalties for non-compliance with the requirements or for misconduct during the type approval process. The intention is to ensure that new vehicles comply with high standards of safety and environmental protection in accordance with the European legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters of special interest to the House of Commons

- 3.2 As these Regulations are subject to negative resolution and have not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These Regulations provide the regulatory framework for implementing Regulation (EU) 167/2013 (EU) of the European Parliament and of the Council on the approval and market surveillance of agricultural and forestry vehicles² (the agricultural vehicle Regulation”) and Regulation (EU) 168/2013 of the European Parliament and of the Council on the approval and market surveillance of two or three-wheel vehicles and quadricycles³ (“the motorcycle Regulation”).

¹ Type approval is the process whereby manufacturers of a new model of vehicle are required to test it against a number of EU or international safety and environmental standards and obtain approval from a government body prior to placing it on sale.

² OJ L 60, 2.3.2013, p. 1

³ OJ L 60, 2.3.2013. p. 52.

- 4.2 All the detailed type approval requirements for the vehicles covered by the two European Regulations mentioned above are set out in those Regulations. These Regulations are required to set out the domestic regulatory framework that will be needed to give effect to those requirements. In particular, the domestic Regulations identify the Secretary of State as the approval and market surveillance authority for the UK although in practice these roles are carried out by the Vehicle Certification Agency (VCA) and the Driver and Vehicle Standards Agency (DVSA), on behalf of the Secretary of State. The domestic regulations also set out the processes for type-approval applications to be refused, review of decisions, withdrawal or suspension of approval, service of documents, and the offences, their enforcement and penalties as well as consequential amendments to other legislation

5. Extent and Territorial Application

- 5.1 The extent of these Regulations is to the United Kingdom.
5.2 The territorial application of these Regulations is to the United Kingdom.

6. European Convention on Human Rights

- 6.1 Jesse Norman MP, the Parliamentary Under Secretary of State for Transport, has made the following statement regarding Human Rights:

“In my view the Motorcycles (Type Approval) Regulations 2018 and the Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.
- 7.2 The objective of the two new EU Regulations is to implement type-approval requirements for motorcycles and agricultural and forestry vehicles in order to improve the safety and environmental performance of such vehicles in response to technological developments and changing market needs.
- 7.3 The agricultural vehicle Regulation applies to agricultural tractors and brings “fast tractors”⁴ into scope of compulsory type-approval for the first time. It also introduces a set of standards for optional type-approval of agricultural trailers and agricultural machinery towed behind tractors, making it easier for suppliers to export such vehicles. There are also a number of improvements to the detailed technical standards that manufactures of these vehicles need to follow.
- 7.4 The scope of the motorcycle Regulation is essentially unchanged from the previous Directive 2002/24/EC⁵ which has been revoked. It includes all two and three wheeled vehicles (motorcycles and tricycles) as well as lightweight low power four wheeled

⁴ A fast tractor is one which by design is capable of exceeding 25mph, these have been increasing in popularity since 2003 and constitute around half of new tractors registered.

⁵ OJ L124, 09.05.2002, p.1

vehicles known as quadricycles. The motorcycle Regulation introduces a number of improvements to environment and safety standards, such as new pollutant emissions standards (Euro 4 from 2017 and Euro 5 from 2020) and compulsory anti-lock braking systems (ABS) for medium-size and large motorcycles.

- 7.5 The new requirements in the agricultural vehicle Regulation and the motorcycle Regulation have been directly applicable in all Member States since 1 January 2016 in accordance with provisions in those EU Regulations. The main purpose of these Regulations is to specify regulatory frameworks to underpin the effective implementation of the EU legislation.
- 7.6 These two Regulations contain essentially the same penalty regime for both motorcycles and tractors. The previous regimes for both categories of vehicles consisted only of criminal offences. Civil penalties are being introduced for the first time, whilst criminal penalties will remain available for more serious or persistent cases of non-compliance. Any contravention of the EU Regulations or the domestic Regulations themselves will be an offence and this covers such matters as failure to hold the correct type-approval and false declarations made during the approval process.

Consolidation

- 7.7 The two sets of Regulations covered by this Memorandum consolidate many provisions in earlier domestic Regulations and consequently, Part 2 of Schedule 2 to each set of Regulations contains details of earlier Regulations that are being revoked.

8. Consultation outcome

- 8.1 The Department for Transport conducted a separate public consultation for each set of Regulations, in parallel, over the same period of 6 weeks from 26 July 2017 to 2 September 2017.
- 8.2 A combined total of 127 responses were made to the Department by email with some commenters responding to both consultations. The responses were from organisations of vehicle manufacturers including the Motor Cycle Industry Association (MCIA), the Agricultural Engineers Association (AEA), user organisations such as the British Motorcycle Federation (BMF), the National Farmers Union (NFU), businesses including dealers in the relevant vehicles, as well as a handful of individuals.
- 8.3 The majority of respondents were positive about the measures being proposed. There were a substantial number of responses from importers and dealers expressing concerns about a subject not explicitly covered in the consultation: the registration of all-terrain vehicles and side-by-sides. This is more a DVLA matter and they have confirmed that persons registering such vehicles will not be required to submit evidence of tractor type approval.
- 8.4 More detailed summaries of the responses to this consultation are available online at <https://www.gov.uk/government/consultations/motorcycles-implementing-eu-regulation-1682013> and <https://www.gov.uk/government/consultations/agricultural-vehicles-implementing-eu-regulation-1672013>. DfT acknowledges the suggestions put forward by respondents on areas related to but not covered by the EU Regulations but no specific action is being taken in connection with such suggestions at this time.

9. Guidance

- 9.1 Both EU Regulations were published in 2013. The detailed test specifications are contained in EU implementing and delegated acts that were published in 2014 or 2015. For motorcycles, these comprise Commission Delegated Regulations (EU) 3/2014, 44/2014 and 134/2014, and Commission Implementing Regulation (EU) 901/2014. For agricultural and forestry vehicles these comprise Commission Delegated Regulations (EU) 1322/2014, 2015/68, 2015/96 and 2015/208, and Commission Implementing Regulation (EU) 2015/504. The EU requirements have been in force since 1 January 2016 and manufacturers having been applying these when making type-approval applications to the relevant approval authorities such as the UK Vehicle Certification Agency (VCA). Information about this is available on the EU Commission's website, on the gov.uk and VCA websites, and from trade associations such as the Motor Cycle Industry Association (MCIA) and the Agricultural Engineers Association (AEA), who have been continually alerting their members about the new rules. Due to the complexity of the subject, new manufacturers considering whether to manufacture motorcycles or agricultural tractors need to make an appointment with VCA (or an authority based in another Member State) to discuss how type-approval may be obtained. The Department has no plans to issue any additional guidance.

10. Impact

- 10.1 There is no impact on charities or voluntary bodies. The EU Regulations are directly applicable. These Regulations set up the regulatory framework for the EU Regulations. In the main, these Regulations simply create a mechanism that will ensure compliance with the requirements through enforcement measures and penalties. The costs associated with this have been assessed by the Department under a Regulatory Triage Assessment (RTA). The RTA concluded that the likely costs of the enforcement regime to business are negligible (under £5 million), given that enforcement will be funded centrally by the Department and market surveillance including the purchase of vehicles for testing will be carried out without the involvement of the manufacturer.
- 10.2 There is no impact on the public sector. The VCA are already familiar with the details of the new EU Regulations and approvals under the new regimes for both motorcycles and tractors have already been issued.
- 10.3 An Impact Assessment has not been prepared for these Instruments.

11. Regulating small business

- 11.1 The legislation is unlikely to apply to small business as it concerns vehicle manufacture which is a capital intensive activity generally unsuitable for small businesses. Separate provision is already made under the Motorcycle Single Vehicle Approval scheme to enable national approval of motorcycles produced in limited numbers, which provides a simpler route to market for small businesses producing motorcycles. We are not aware of any small businesses producing agricultural tractors.
- 11.2 Therefore no specific action is proposed to minimise regulatory burdens on small businesses.

12. Monitoring & review

- 12.1 The Department for Transport has assessed that the net costs these Regulations impose on business as being less than £5m in any year. The enforcement regime will be operated on the Department's behalf by the Driver and Vehicle Standards Agency (DVSA). An Annual Report will be published each year which will provide an opportunity to review whether the objectives of enforcing the EU Regulations have been achieved. Conducting a five year review on top of this is considered disproportionate and duplication. Given this, a Review clause has not been included.

13. Contact

- 13.1 Mr Mike Lowe at the Department for Transport, telephone: 07769 243345 or email: mike.lowe@dft.gsi.gov.uk can answer any queries regarding these Regulations.