

**EXPLANATORY MEMORANDUM TO
THE MOTOR CYCLES ETC. (EC TYPE APPROVAL)(AMENDMENT)
REGULATIONS 2007**

2007 No. 2656

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

2. Description

2.1 These Regulations amend the Motor Cycles Etc. (EC Type Approval) Regulations 1999 (“the 1999 Regulations”) in order to implement three Commission Directives – 2006/27/EC, 2006/72/EC and 2006/120/EC – relating to the type approval of two or three-wheel motor vehicles, a Council Directive, 2006/96/EC and future amending Directives.

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

3.1 Paragraph 1A of Schedule 2 to the European Communities Act 1972 is being relied upon to implement future directives. It is considered expedient that future Directives amending Directive 2002/24/EC (“the Framework Directive”) or any of the directives in Schedule 1 to the 1999 Regulations (“separate Directives”) are implemented in this way. It is thought appropriate to do so since it is anticipated that amendments to the Framework Directive and to the separate Directives would be technical in nature and in the context of the 1999 Regulations would simply entail the Secretary of State having to take account of such technical amendments in deciding upon the grant or refusal of an application for type approval under those Regulations. It is considered advantageous to implement in this ambulatory way since this will avoid the need for new amending regulations for the implementation of future amending directives. There will be an updating of the transposition note referred to in the explanatory note to record implementation by way of the ambulatory provisions.

4. Legislative Background

4.1 The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the regulation of the type, description, construction or equipment of vehicles and of components of vehicles, and in particular, any vehicle type approval scheme. These Regulations are made in exercise of the powers conferred by that section of that Act to implement the Directives referred to in paragraph 3.1.

4.2 Directive 2006/27/EC has the effect of simplifying requirements for approval markings of catalytic converters and silencers; statutory markings and maximum speed, and provides clarification of application of existing requirements in the case of external projections, seat belts and their anchorages. It also aligns the requirements of Directive 93/14/EC with recent changes to Economic Commission for Europe (“ECE”) Regulation 78 on motorcycle braking.

4.3 Directive 2006/72/EC amends the separate Directive 97/24/EC, as amended by 2002/51/EC, to enable manufacturers to obtain type approval for their machines in respect of their emissions by using, as an alternative to the test procedure already

specified, the test procedure of the ECE Global Technical Regulation No.2. This harmonization measure should simplify marketing arrangements for many manufacturers.

4.4 Directive 2006/96/EC amends previous Directives (including the Framework Directive solely to recognize the Accession of Bulgaria and Romania to the EU in January this year.

4.5 Directive 2006/120/EC amends a previous Directive (2005/30/EC) in order to clarify its applicability in respect of replacement catalytic converters.

4.6 The Regulations also implement future Directives amending the Framework Directive or any of the separate Directives.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Pursuant to Directive 2002/24/EC, the 1999 Regulations provide a system for granting European Community type approval for two or three-wheeled vehicles (mopeds, motor cycles and motor tricycles) and certain light four-wheeled vehicles (quadricycles) and also for their systems, separate technical units or components.

7.2 To obtain EC type approval there must be compliance with the minimum technical standards specified by various separate Directives. In the case of vehicles, this allows registration and sale of the vehicles in any EEA Member State, and in the case of systems or components, this allows sale or installation.

7.3 As mentioned in paragraph 4.2, Directive 2006/27/EC makes amendments to a number of Directives in order to update, clarify and simplify their operation, while 2006/72/EC allows the use of an alternative test procedure.

7.4 Directive 2006/96/EC recognises the accession of Bulgaria and Romania to the EU in January 2007.

7.5 Directive 2006/120/EC clarifies the requirements for application of a previous Directive on emissions (2005/30/EC) in respect of the marking of replacement catalytic converters. It is now clarified that the requirements for such markings are mandatory. This requirement may involve costs to users, but these costs will concern aftermarket parts, and their sale or installation on a vehicle. The implementation of this requirement will be the subject of a separate set of regulations.

7.6 Although imposition of the technical requirements in the Directives is mandatory and there is no alternative to amending the 1999 Regulations, the Department has advised the United Kingdom's automotive industry of the necessary changes and asked their opinions. Representatives of the Industry participate actively in the development of European legislation, and close contact will have been maintained during the decision-making process that led to the adoption of the technical requirements of the Directives. A notification letter was sent by the Vehicle Certification Agency on 7th January 2007 to the Motor Cycle Industries Association

(MCIA) in order to advise of the transposition and to invite any comment and they have made no response.

8. Impact

8.1 There is no significant impact on manufacturers and importers, as the effect of these Regulations in implementing the four Directives is merely to simplify and clarify existing requirements, to recognize new Member States of the EU and to provide an alternative (test procedure). No RIA has therefore been prepared in respect of these Regulations.

8.2 There is no impact on charities, voluntary bodies or the public sector.

9. Contact

Gus Gander at the Vehicle Certification Agency, Department for Transport Tel: 01179 524119 or e-mail: ggander@vca.gov.uk can answer any queries regarding the instrument.

Transposition Note

The Motor Cycles Etc. (EC Type Approval)(Amendment) Regulations 2007

1. For the purposes of this note-

“Directive 93/14/EEC” means Council Directive 93/14/EC of 5 April 1993 on the braking of two- or three-wheel motor vehicles;

“Directive 93/34/EEC” means Council Directive 93/34/EC of 14 June 1993 on statutory markings for two- or three-wheel motor vehicles;

“Directive 95/1/EC” means Directive 95/1/EC of the European Parliament and of the Council of 2 February 1995 on the maximum speed, maximum torque and maximum net engine power of two- or three-wheel motor vehicles;

“Directive 97/24/EC” means Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two- or three-wheel motor vehicles;

“Directive 2002/24/EC” means Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type approval of two- and three-wheel motor vehicles and repealing Council Directive 92/61/EEC;

“Directive 2006/27/EC” means Commission Directive 2006/27/EC of 3 March 2006 amending for the purposes of adapting to technical progress Council Directives 93/14/EEC on the braking of two- or three-wheel motor vehicles and 93/24/EEC on statutory markings for two- or three wheel motor vehicles, Directives of the European Parliament and of the Council 95/1/EC on the maximum design speed, maximum torque and maximum net engine power of two- or three-wheel motor vehicles and 97/24/EC on certain components and characteristics of two- or three wheel motor vehicles;

“Directive 2006/72/EC” means Commission Directive 2006/72/EC of 18 August 2006 amending for the purposes of adapting to technical progress Directive 97/24/EC of the European Parliament and of the Council on certain components and characteristics of two or three-wheel motor vehicles;

“Directive 2006/96/EC” means Council Directive 2006/96/EC of 20 November 2006 adapting certain Directives in the field of free movement of goods, by reason of the accession of Bulgaria and Romania;

“Directive 2006/120/EC” means Commission Directive 2006/120/EC of 27 November 2006 correcting and amending Directive 2005/30/EC amending, for the purposes of their adaptation to technical progress, Directives 97/24/EC and 2002/24/EC of the European Parliament and of the Council, relating to the type approval of two or three-wheel motor vehicles; and

“the Regulations” means the Motor Cycles Etc. (EC Type Approval) (Amendment) Regulations 2007.

2. The table below sets out how the Regulations transpose the directives and transposition of the provisions in column 2 is the responsibility of the Secretary of State.

3. The Regulations do what is necessary to implement the directives mentioned in column 1 of the table.

(1) Directive	(2) Article (or other provision where stated)	(3) Objectives	(4) Implementation
2006/27/EC	1	Amendment of the Annex to Directive 93/14/EEC	Regulation 2(3)(b)(i) (as read with Interpretation Act 1978, section 20A) provides that Directive 2006/27/EC is a separate Directive amending Directive 93/14/EEC.
	2	Amendment of the	Regulation 2(3)(b)(ii)

		Annex to Directive 93/34/EEC	(as read with Interpretation Act 1978, section 20A) provides that Directive 2006/27/EC is a separate Directive amending Directive 93/34/EEC.
	3	Amendment of the Annex to Directive 95/1/EC	Regulation 2(3)(b)(iii) (as read with Interpretation Act 1978, section 20A) provides that Directive 2006/27/EC is a separate Directive amending Directive 95/1/EC.
	4	Amendment of the Annexes to Directive 97/24/EC.	Regulation 2(3)(b)(iv) (as read with Interpretation Act 1978, section 20A) provides that Directive 2006/27/EC is a separate Directive amending Directive 97/24/EC.
	5	<p>Not to refuse type approval, or prohibit the registration, sale or entry into service, of vehicles which comply with Directives 93/14/EEC, 93/34/EEC, 95/1/EC and 97/24/EC (as amended by Directive 2006/27/EC) on grounds relating to the subject matter of the Directive concerned with effect from 1/1/07.</p> <p>To refuse type approval, on grounds relating to the subject matter of the Directive concerned, to any new type of vehicle which does not comply with the provisions of Directives 93/14/EEC, 93/34/EEC, 95/1/EC and 97/24/EC (as amended by Directive 2006/27/EC)</p>	<p>Since a vehicle complying with Directives 93/14/EEC, 93/34/EEC, 95/1/EC and 97/24/EC (as amended by Directive 2006/27/EC) is likely to comply with those Directives as unamended, no national provision was considered necessary to implement Article 5(1)</p> <p>Regulation 2(3)(b) (as read with Interpretation Act 1978, section 20A) provides that Directive 2006/27/EC is a separate Directive and thus to be taken into account by the Secretary of State in decisions as to the refusal (or grant) of type approval applications.</p>
	6	To implement by 31/12/06, refer to Directive 2006/27/EC in so doing and notify the Commission thereof	See above as to implementation and this note is intended as the means of reference to Directive 2006/27/EC. Notification is an administrative function.

2006/72/EC	1	Amendment of Annex II of Chapter 5 to Directive 97/24/EC	Regulation 2(3)(b)(iv) (as read with Interpretation Act 1978, section 20A) provides that Directive 2006/72/EC is a separate Directive and thus to be taken into account by the Secretary of State in decisions as to the grant or refusal of type approval applications under the Regulations.
	2	To implement before 1/7/07 and notify the Commission thereof	See above as to implementation. Notification is an administrative function.
2006/96/EC	1 and Annex paragraph A39	To amend Directive 2002/24/EC to take account of the accession of Bulgaria and Romania	Regulation 2(2)(a) (as read with Interpretation Act 1978, section 20A) provides that the definition of “the Framework Directive” includes reference to amending Directives in force or adopted as at the date the Regulations are made, Directive 2006/96/EC being the latest.
2006/120/EC	1	Not to refuse type approval to new replacement catalytic converters which comply with the requirements of Directive 97/24/EC (as amended by Directive 2006/120/EC) and are intended to be fitted to vehicles type-approved under Directive 97/24/EC. Not to prohibit the sale or installation on a vehicle of new replacement catalytic converters which comply with the requirements of Directive 97/24/EC (as amended by Directive 2006/120/EC) and are intended to be fitted to vehicles type-approved under Directive 97/24/EC.	Regulation 2(3)(c) (as read with Interpretation Act 1978, section 20A) provides that Directive 2006/120/EC is a separate Directive and thus to be taken into account by the Secretary of State in decisions as to the grant or refusal of type approval applications under the Regulations. There are currently no such prohibitions so no specific implementing provision is needed.
	2	To prohibit the sale or	Not being transposed

		installation of non-type approved replacement catalytic converters from 1/1/09.	by these Regulations.
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