

2011 No. 3065

ROAD TRAFFIC

**The Road Vehicles (Construction and Use) (Amendment No. 2)
Regulations 2011**

<i>Made</i>	- - - -	<i>21st December 2011</i>
<i>Laid before Parliament</i>		<i>23rd December 2011</i>
<i>Coming into force</i>	- -	<i>14th January 2012</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 41(1), (2) and (5) of the Road Traffic Act 1988(a) and by section 2(2)(b) of the European Communities Act 1972(b).

The Secretary of State for Transport is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 Act(c) for the regulation of the type, description, construction or equipment of vehicles, and of components of vehicles, and in particular any vehicle type approval scheme.

Representative organisations have been consulted in accordance with section 195(2) of the Road Traffic Act 1988.

Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Construction and Use) (Amendment No. 2) Regulations 2011 and come into force on 14th January 2012.

Revocation of the Road Vehicles (Construction and Use) (Amendment) Regulations 2011

2. The Road Vehicles (Construction and Use) (Amendment) Regulations 2011(d) are revoked.

Amendment of Regulations

3. The Road Vehicles (Construction and Use) Regulations 1986(e) are amended as follows.

End-of-series exemption

4.—(1) For regulation 61C (“end-of-series exemption”), substitute—

(a) 1988 c.52; section 41(2) was amended by the Road Traffic Act 1991c.40 section 48 and Schedule 4, paragraph 50.
(b) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 c.51, section 27(1), and by the European Union (Amendment) Act 2008 c.7, section 3(3) and Part I of the Schedule.
(c) S.I.1972/1811, amended by S.I. 1996/266 and S.I. 2000/2812.
(d) S.I. 2011/427.
(e) S.I. 1986/1078, amended by S.I. 2011/427; there are other amending instruments but none are relevant.

“End-of-series exemption

61C.—(1) The requirements in articles 4 to 6 and 10 and Annex 1 of European Community Regulation 715/2007(a) shall—

- (a) in relation to complete end-of-series vehicles—
 - (i) of category N₁ class II and III, and
 - (ii) of category N₂ having a reference mass not exceeding 2,610 kilograms,be deemed to be fulfilled for the period beginning with the relevant date and ceasing at the end of 31st December 2012;
- (b) in relation to end-of-series completed multi-stage build vehicles of category N₁ class I, be deemed to be fulfilled for the period beginning with the relevant date and ceasing at the end of 30th June 2012;
- (c) in relation to end-of-series completed multi-stage build vehicles—
 - (i) of category N₁ class II and III, and
 - (ii) of category N₂ having a reference mass not exceeding 2,610 kilograms,be deemed to be fulfilled for the period beginning with the relevant date and ceasing at the end of 30th June 2013.

(2) The requirements in articles 4 to 6 and 8 and Annex I of European Community Regulation 595/2009(b) shall—

- (a) for category N₂ end-of-series vehicles having a reference mass exceeding 2,610 kilograms, and
- (b) category N₃ end-of-series vehicles,

be deemed to be fulfilled, in relation to complete vehicles, for the period beginning with the relevant date and ceasing at the end of 30th December 2014, or in the case of completed multi-stage build vehicles, beginning with the relevant date and ceasing at the end of 29th June 2015.

(3) For the purpose of paragraphs (1) and (2), a vehicle is an end-of-series vehicle if—

- (a) three months or more before the relevant date, a certificate of conformity or a Minister’s approval certificate issued under section 58(4) of the 1988 Act was in force for the vehicle, and the Minister’s approval certificate issued under section 58(1) of that Act or type approval certificate (as the case may be) had been issued by virtue of an emissions requirement that—
 - (i) then applied to the vehicle, but
 - (ii) apart from this regulation, would have ceased to apply on the relevant date, and
- (b) it is in the territory of an EEA state on the relevant date.

(4) In this regulation—

“category N₁ class I” means a motor vehicle with at least 4 wheels designed or constructed for the carriage of goods and having a reference mass not exceeding 1,305 kilograms;

(a) Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles (Euro 5 and 6) and on access to vehicle repair and maintenance information (OJ No L 171, 29.6.2007, p.1), as amended by Commission Regulation (EC) No 692/2008 of 18 July 2008 (OJ No L 199, 28.7.2008, p.1) and Commission Regulation (EU) No 566/2011 of 8 June 2011 (OJ No L 158, 16.6.2011, p.1).

(b) 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) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ No L 188, 18.7.2009, p.1), as amended by Commission Regulation (EU) No 582/2011 of 25 May 2011 (OJ No L 167, 25.6.2011, p.1).

“category N₁ class II” means a motor vehicle with at least 4 wheels designed or constructed for the carriage of goods and having a reference mass exceeding 1,305 kilograms but not exceeding 1,760 kilograms;

“category N₁ class III” means a motor vehicle with at least 4 wheels designed or constructed for the carriage of goods and having a reference mass exceeding 1,760 kilograms;

“category N₂” and “category N₃” have the respective meanings given in Annex II to Directive 2007/46/EC(a);

“complete vehicle” means any vehicle which need not be completed in order to meet the relevant technical requirements of Directive 2007/46/EC;

“completed multi-stage build vehicle” means a vehicle resulting from the process of multi-stage type-approval which meets the relevant technical requirements of Directive 2007/46/EC;

“reference mass” has the meaning given in Article 3(3) of European Community Regulation 715/2007;

“relevant date” means—

- (i) in relation to vehicles to which paragraph (1) applies, the date on which the Road Vehicles (Construction and Use) (Amendment No. 2) Regulations 2011 come into force, and
- (ii) in relation to vehicles to which paragraph (2) applies, 31st December 2013.”.

5. After regulation 61C, insert—

“Review of regulations 61 to 61B

61D.—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulations 61 to 61B, which relate to emissions,
- (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, in so far as they make provision in relation to emissions—

- (a) the Framework Directive, and

(a) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ No L 263, 9.10.2007, p.1), commonly referred to as the “Framework Directive”, amended by Commission Regulation (EC) No 1060/2008 of 7 October 2008 (OJ No L 292, 31.10.2008, p.1); Regulation (EC) No 78/2009 of the European Parliament and of the Council of 14 January 2009 (OJ Ref L 35, 4.2.2009, p.1); Regulation (EC) No 79/2009 of the European Parliament and of the Council of 14 January 2009 (OJ No L 35, 4.2.2009, p.32); Commission Regulation (EC) No 385/2009 of 7 May 2009 (OJ No L 118, 13.5.2009, p.13); Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 (OJ No L 200, 31.7.2009, p.1); Commission Directive 2010/19/EU of 9 March 2010 (OJ No L 72, 20.3.2010, p.17); Commission Decision 2011/415/EU of 14 July 2011 (OJ No L 185, 15.7.2011, p.76); Commission Regulation (EU) No 371/2010 of 16 April 2010 (OJ No L 110, 1.5.2010, p.1); Commission Regulation (EU) No 582/2011 of 25 May 2011 (OJ No L 167, 25.6.2011, p1) and Commission Regulation (EU) No 678/2011 of 14 July 2011 (OJ No L 185, 15.7.2011, p.30).

(b) Directives 70/220/EEC(a), 88/77/EEC(b), 2005/55/EC(c) and 2006/40/EC(d), which are implemented by means of various provisions in these Regulations and by the Road Vehicles (Approval) Regulations 2009(e), are 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 to the extent that they relate to emissions,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with 14th January 2012.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Signed by authority of the Secretary of State for Transport

Theresa Villiers
Minister of State
Department for Transport

21st December 2011

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- (a) Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles (OJ No L 76, 6.4.1970, p.1), amended by: Council Directive 74/290/EEC of 28 May 1974 (OJ No L 159, 15.6.1974, p.61); Commission Directive 77/102/EEC of 30 November 1976 (OJ No L 32, 3.2.1977, p.32); Commission Directive 78/665/EEC of 14 July 1978 (OJ No L 223, 14.8.1978, p.48); Council Directive 83/351/EEC of 16 June 1983 (OJ No L 197, 20.7.1983, p.1); Council Directive 88/76/EEC of 3 December 1987 (OJ No L 36, 9.2.1988, p.1); Council Directive 88/436/EEC of 16 June 1988 (OJ No L 214, 6.8.1988, p.1); Council Directive 89/458/EEC of 18 July 1989 (OJ No L 226, 3.8.1989, p.1); Commission Directive 89/491/EEC of 17 July 1989 (OJ No L 238, 15.8.1989, p.43); Council Directive 91/441/EEC of 26 June 1991 (OJ No L 242, 30.8.1991, p.1); Council Directive 93/59/EEC of 28 June 1993 (OJ No L 186, 28.7.1993, p.21); Directive 94/12/EC of the European Parliament and the Council of 23 March 1994 (OJ No L 100, 19.4.1994, p.42); Commission Directive 96/44/EC of 1 July 1996 (OJ No L 210, 20.8.1996, p.25); Directive 96/69/EC of the European Parliament and of the Council of 8 October 1996 (OJ No L 282, 1.11.1996, p.64); Commission Directive 98/77/EC of 2 October 1998 (OJ No L 286, 23.10.1998, p.34); Directive 98/69/EC of the European Parliament and of the Council of 13 October 1998 (OJ No. L 350, 28.12.1998, p.1); Commission Directive 1999/102/EC of 15 December 1999 (OJ No L 334, 28.12.1999, p.43); Directive 2001/1/EC of the European Parliament and of the Council of 22 January 2001 (OJ No L 35, 6.2.2001, p.34); Directive 2001/100/EC of the European Parliament and of the Council of 7 December 2001 (OJ No L 16, 18.1.2002, p.32); Commission Directive 2002/80/EC of 3 October 2002 (OJ No L 291, 28.10.2002, p.20); Commission Directive 2003/76/EC of 11 August 2003 (OJ No L 206, 15.8.2003, p.29); and Council Directive 2006/96/EC of 20 November 2006 (OJ No L 363, 20.12.2006, p.81).
 - (b) Council Directive 88/77/EEC of 3 December 1987 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles, as amended by: Council Directive 91/542/EEC of 1 October 1991 (OJ No L 295, 25.10.1991, p.1); Directive 96/1/EC of the European Parliament and of the Council of 22 January 1996 (OJ No L 40, 17.2.1996, p.1); Directive 1999/96/EC of the European Parliament and of the Council of 13 December 1999 (OJ No L 44, 16.2.2000, p.1); Commission Directive 2001/27/EC of 10 April 2001 (OJ No L 107, 10 18.4.2001, p.10); the Act of Accession of Austria, Sweden and Finland (OJ No C 241, 29.8.1994, p.21) and adapted by Council Decision 95/1/EC, Euratom, ECSC (OJ No L 1, 1.1.1995, p.1); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No L 236, 23.9.2003, p.33).
 - (c) Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (OJ No L 275, 20.10.2005, p.1), as amended by: Commission Directive 2005/75/EC of 14 November 2005 (OJ No L 313, 29.11.2005, p.1); Commission Directive 2006/51/EC of 6 June 2006 (OJ No L 11, 7.6.2006, p.11); and Commission Directive 2008/74/EC of 18 July 2008 (OJ No L 51, 19.7.2008, p.51).
 - (d) Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles and amending Directive 70/156/EEC (OJ No L161, 14.6.2006, p.12). Directive 70/56/EEC was the predecessor of the current Framework Directive.
 - (e) S.I. 2009/717, amended by S.I. 2011/1946.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) (“the 1986 Regulations”) and revoke the Road Vehicles (Construction and Use) (Amendment) Regulations 2011 (S.I.2011/427). The revoked instrument inserted regulation 61C into the 1986 Regulations and regulation 4 now substitutes an amended version of regulation 61C.

The original regulation 61C provided exemptions from the emissions requirements in EC Regulations 715/2007 (OJ No L 171, 29.6.2007, p.1) (“the 2007 Regulation”) and 595/2009 (OJ No L 188, 18.7.2009, p.1) (“the 2009 Regulation”) for certain end-of-series vehicles. The effect of this instrument is to make these exemptions available to certain additional categories of light goods vehicles. The instrument does this by deeming those end-of-series vehicles to fulfil new EU emission standards for a finite period. The exemptions are permitted by article 27 of Directive 2007/46/EC (OJ No L 263, 9.10.2007, p.1) (commonly known as the “Framework Directive”) and have the effect of extending the time for compliance with those emissions requirements.

Regulation 4 substitutes a revised regulation 61C into the 1986 Regulations.

New regulation 61C(1) has the effect of providing end-of-series exemptions from various requirements of the 2007 Regulation. For complete vehicles of categories N₁ class II and III, as well as N₂ with a reference mass of up to 2,610 kg, the exemption will apply until 31st December 2012. This lighter category of N₂ vehicles was previously erroneously omitted from the ambit of the 2007 Regulation and the earlier version of regulation 61C(1).

The new version of regulation 61C(1) also provides extended exemptions for completed multi-stage vehicles until 30th June 2012 for category N₁ class I, and until 30th June 2013 for such vehicles of category N₁ class II and III, as well as category N₂ of less than 2,610 kg.

New regulation 61C(2) has the effect of providing for end-of-series exemptions from various requirements of the 2009 Regulation. For complete vehicles the exemptions in relation to category N₂ vehicles with a mass of over 2,160 kg and for category N₃ vehicles apply until 30th December 2014.

In relation to completed multi-stage build vehicles of both categories, new regulation 61C(2) also has the effect of providing an extended exemption until 29th June 2015.

New regulation 61C(3) substitutes a revised definition of “end-of-series vehicle”.

Regulation 5 inserts a requirement into the 1986 Regulations (new regulation 61D) for the Secretary of State to review the operation and effect of Regulations 61 to 61B (which relate to emissions), and publish a report within five years of 14th January 2012, and within every five years thereafter. Following each review, the Secretary of State will decide whether those provisions of the 1986 Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke or amend those provisions of the 1986 Regulations.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the International Vehicle Standards 1 team at the Department for Transport, 33 Horseferry Road, London, SW1P 4DR and is also published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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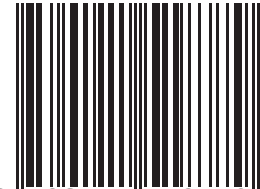
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