EXPLANATORY MEMORANDUM TO THE MOTOR CYCLES ETC (REPLACEMENT OF CATALYTIC CONVERTERS) REGULATIONS 2009

2009 No. 1896

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 implement Article 2 of Directive 2006/120/EC which requires Member States to control the supply and installation of replacement catalytic converters intended for two or three-wheeled vehicles which have been approved to the emissions standards of Directive 97/24/EEC as amended.

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

3.1 None

4. Legislative Context

4.1. Directive 97/24/EC, which has been amended by Directives 2002/51/EC, 2005/30/EC and 2006/120/EC, provides the type approval emissions standards for 2 and 3 wheeled vehicles (which include mopeds, motor cycles, motor scooters, tricycles and quadricycles) and for replacement catalytic converters intended for such vehicles. The type approval standards, first introduced in June 1999, have been gradually tightened.

4.2. 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 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.

4.3 They implement Article 2 of Directive 2006/120/EC (which introduced paragraph 3 into article 3 of Directive 2005/30/EC). This requires Member States to prohibit the sale or installation on a vehicle of replacement catalytic converters which has not been type approved to the emissions standards of Directive 97/24/EEC as amended.

4.4. Directive 2005/30/EC established performance criteria for the type approval as separate technical units of replacement catalytic converters. As an aid to enforcement, the Directive also prescribed requirements for the marking and provision of information for both these and original replacement catalysts (i.e. those covered by the original type approval for the vehicle). It is these marking and information requirements that the Regulations mandate.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom**.**

6. European Convention on Human Rights

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

7. Policy background

- **What is being done and why**

7.1 The general aim of the EC directives is to reduce air pollution from this sector and thus improve air quality across Europe.

7.2. Pollution adversely affects health, with effects ranging from mild irritation of the respiratory system, through increased symptoms for those with pre existing respiratory problems to premature mortality. Air quality standards have been established in the UK based on expert medical advice as to the likely effects of air pollutants.

7.3. Catalytic converters have been the one of the main means adopted by manufacturers to meet the succession of tighter emissions standards introduced for these vehicles, as described above. The Regulations will help to ensure the performance of catalytic converters offered for use as replacement components.

7.4. The UK is already meeting its air quality targets in respect of carbon monoxide and hydrocarbon species (1,3 butadiene and benzene). Moreover, since the market for replacement catalysts is understood to be dominated by original replacement catalysts (i.e. those made by the vehicle manufacturer or their suppliers) which will already be produced to the original emissions standards, the immediate benefits to the UK in terms of air quality will be marginal. Nevertheless, given that the replacement market in this sector is presently in its infancy, the measure will lay down a benchmark which any emerging aftermarket industry would have to meet, thus avoiding erosion of the emissions benefits derived from the original emissions standards.

- **Consolidation**

7.5 These are free-standing regulations in a previously unregulated area.

8. Consultation outcome

8.1 The Department was in contact with the UK Motorcycle Industry Association and with the main UK manufacturer, Triumph, during the development of the Regulations. No specific comments were received on the draft Regulations in the public consultation exercise which was carried out between 21 January and 25 March 2009.

9. Guidance

9.1 The Vehicle Certification Agency (VCA), an executive agency of the Department for Transport, is undertaking a programme of visits to manufacturers to advise on the

new legislative requirements. VCA will also issue an advisory leaflet to manufacturers and stockists

10. Impact

10.1. The measure will affect businesses engaged in the manufacture or procurement of emission control systems. At present this sector is understood to be dominated by manufacturers of original replacement catalytic converters. These might be the vehicle manufacturer or a supplier which is selling the replacement as a separate technical unit. Any cost increase for such businesses is likely to be marginal. This is because they will already be manufacturing replacement catalysts to the emissions standards required by the type approval legislation and marking their products accordingly. In many cases the information requirements, such as an indication of the models for which the catalysts have been approved are also likely to be already met.

10.2. Given the marginal costs and benefits and the mandatory nature of the directive, an Impact Assessment has not been prepared.

10.3. There is no impact on the public sector. The costs of enforcement are expected to be minimal given that enforcement of these Regulations will occur in parallel with enforcement of similar Regulations relating to cars and vans.

11. Regulating small business

11.1. As indicated above, the effect on business is expected to be marginal. Also manufacturers of original replacement catalytic converters are either the vehicle manufacturer or their suppliers who tend to be medium to large enterprises

12. Monitoring and review

12.1 This will be undertaken by the VCA as part of their enforcement duties.

13. Contact

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TRANSPOSITION NOTE
THE MOTOR CYCLES ETC (REPLACEMENT OF CATALTYIC CONVERTERS) REGULATIONS 2009

1. For the purpose of this note:-

"Directive 97/24/EC" means directive 97/24/EC of the European Parliament and the Council of 17 June 1997 on certain components and characteristics of two and three wheel motor vehicles,

"Directive 2005/30/EC" means Commission Directive 2005/30/EC of 22 April 2005, amending, for the purposes of their adaptation to technical progress, Directives 97/24/EC and 2002/24/EC of the European Parliament and the Council, relating to the type-approval of two and three wheel motor vehicles.

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

2. These Regulations do what is necessary to implement article 2 of the Directive.

DIRECTIVE 2006/120/EC			
Article	**Objectives**	**Implementation**	**Responsibility**
Article 2	Article 2 adds a new paragraph (3) to Article 3 of Directive 2005/30/EC requiring that: *"With effect from 1 January 2009 Member States shall refuse the sale or installation on a vehicle of replacement catalytic converters which are not of a type in respect of which a type approval has been granted in compliance with Directive 97/24/EC as amended by this Directive.*	This provision is implemented by regulations 4 and 5 of the Motor Cycles Etc (Replacement of Catalytic Converters) Regulations 2009 "The Regulations"), which, respectively prohibit the supply and the installation of certain catalytic converters unless they comply with the requirements set out in those regulations. The Schedule provides that, amongst other things, breaching the requirements of regulation 4(1) or 5(1) is an offence. The consequence of the Regulations is that replacement catalytic converters intended for two or three wheeled vehicles approved to Directive 97/24/EC, as amended, may not be supplied or installed on such vehicles unless they have also been type approved to the Directive.	The Secretary of State