EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (APPROVAL)(CONSEQUENTIAL AMENDMENTS) REGULATIONS
2009 No. 818

THE MOTOR VEHICLES (APPROVAL) (AMENDMENT) REGULATIONS
2009 No. 815

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations make changes that are consequential upon the implementation of Directive 2007/46/EC (as amended by Regulation (EC) No 1060/2008). That Directive must be implemented by 29th April 2009.

2.2 The Road Vehicles (Approval) (Consequential Provisions) Regulations 2009 amend the Public Passenger Vehicles Act 1981 ("PPVA") and the Road Traffic Act 1988 ("RTA"). First, they replace the current requirement that new types of bus must hold a certificate of approval issued under the PPVA or the RTA with a requirement that they must hold a certificate issued in accordance with Directive 2007/46/EC. Second, they remove "light passenger vehicles" (vehicles with internal combustion engines, 4 or more wheels and no more than 8 passenger seats) from the scope of certain offences in the RTA.

2.3 The Motor Vehicles (Approval) (Amendment) Regulations 2009 amend the Motor Vehicles (Approval) Regulations 2001. They remove from their scope most types of vehicle in category M_1 (passenger vehicles with 4 or more wheels and no more than 8 passenger seats) together with motor cycles, tricycles and quadricyles and make minor and consequential amendments to them.

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

None

4. Legislative Context

4.1 Directive 2007/46/EC is a framework directive. It substantially extends and revises the systems currently in operation under which new vehicles are approved for use on the road. It is being implemented by a separate package of regulations, of which full details have been given in the Explanatory Memorandum and Transposition Note accompanying the Road Vehicles (Approval) Regulations 2009 (S.I. 2009/717, the "principal Regulations").

However there are a number of consequential changes required to existing legislation alongside the new regulations.

4.2 The PPVA regulates many aspects of public service vehicles ("PSVs"), which are vehicles that carry passengers for hire or reward. Section 6 requires PSVs to hold one of three types of certificate of approval as a condition of operation on the road. The RTA regulates traffic on roads generally, and Part 2 covers vehicle safety and environmental performance. In particular, it requires compliance with a number of subordinate regulations relating to the type approval or individual of vehicles. Section 64A of the RTA makes it an offence to use on a road a light passenger vehicle which is neither properly registered nor properly approved in accordance with Directive 70/156/EEC (which is replaced by Directive 2007/46/EC) and section 65A makes it an offence to supply such a vehicle if it to be used on a road.

4.3 Currently, the approval of single vehicles (which are not type approved) is not subject to European rules and is regulated under the Motor Vehicles (Approval) Regulations 2001, made under powers in Part 2 of the RTA. As part of the process of implementing Directive 2007/46/EC, these Regulations will ultimately need to be revoked as the new Road Vehicles (Approval) Regulations take effect. The first step in that process is to amend the Motor Vehicles Approval regulations to exclude certain vehicles from them.

4.4 The principal Regulations prohibit the registration of vehicles in category M_1which are not covered by appropriate certificates of approval and section 29 of the Vehicle Excise and Registration Act 1994 makes it an offence to use an unregistered vehicle on a road.

5. Territorial Extent and Application

5.1 These instruments extend to Great Britain.

6. European Convention on Human Rights

Jim Fitzpatrick, Parliamentary Under Secretary, Department for Transport, has made the following statement regarding Human Rights:

In my view the provisions of the Road Vehicles (Approval) Consequential Amendments) Regulations are compatible with the Convention rights

7. Policy background

- ***What is being done and why***

7.1 The European road vehicle type approval system has been revised in order to create a single European market in all new road vehicles (including buses, trucks and trailers) and to improve road safety and protection of the environment..

7.2 Member States are required to transpose Directive 2007/46/EC into national legislation by 29th April 2009. A separate package of regulations provides for that, whilst this package makes various consequential changes.

7.3 Currently buses are regulated at a national level. New buses which are to be used to carry paying passengers are required under the Public Passenger Vehicles Act 1981 to be subjected to an inspection known as COIF – Certification of Initial Fitness. In the future, under the new regime set up by 2007/46/EC, all new buses will have to undergo approval to harmonised European standards or similar national equivalents. A COIF inspection in these circumstances would be superfluous and thus these regulations amend primary legislation to exempt buses approved under the new regime from having to undergo a COIF inspection.

7.4 Under the current Road Traffic Act there are various general obligations that are implemented by means of secondary legislation. Some of these obligations are superseded by the new European type approval regime and therefore some amendment to the Road Traffic Act is needed, to exclude vehicles regulated under 2007/46/EC from certain of its provisions.

7.5 The majority of passenger cars and light trucks are currently type approved by the manufacturer to European standards or in the case of lights trucks, national standards. However for those that are not, such as personal imports and vehicles imported by independent traders from markets like Japan and the USA, as well as for self-built "kit cars", there exists a Single Vehicle Approval (SVA) scheme, under the Motor Vehicles (Approval) Regulations 2001. From 29th April the Directive requires us to cease offering this scheme to passenger cars, since they should be approved under the new Road Vehicles (Approval) Regulations 2009..

Consolidation

7.6 In due course, the Motor Vehicles (Approval) Regulations 2001 will be wholly revoked but because the Directive introduces the new regime in stages these Regulations must remain at least partially in force for a period of time.

8. Consultation outcome

8.1 Although full consultations took place on the regulations implementing Directive 2007/46/EC, the Department has not explicitly consulted on the consequential changes since these are consequential to the introduction of the main approval regime and follow naturally from it. However, relevant stakeholders have been notified of the proposed changes to the PPV Act which would give exemption from the requirement for a COIF inspection for buses approved to the new regime, and a favourable response was received.

8.2 A summary of the outcome of the public consultation on the principal Regulations and regulations imposing fees under the new regime is available on the Department's website:
www.dft.gov.uk/consultations/closed/typeapproval.

9. Guidance

The Department and its Agencies have produced a number of documents giving guidance on aspects of the implementation of Directive 2007/46/EC. None are specifically targeted at these consequential amendments but they cover all matters of practical relevance to manufacturers and consumers.

10. Impact

10.1 An Impact Assessment showing the impact of the implementation of Directive 2007/46 on business, charities and voluntary bodies has been prepared, this incorporates the impact of the consequential measures. It is attached to this the EM for the principal Regulations]..

10.2 There should be no impact on the public sector, because the system will be self-financing.

11. Regulating small business

11.1 The consequential provisions will apply to small businesses but no special measures are foreseen as being required.

12. Monitoring & review

A review of the consequential measures is not expected or seen as necessary.

13. Contact

Michael Lowe at the Department for Transport, Tel: 020 7944 8300 can answer any queries regarding the instruments.