EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (EC TYPE APPROVAL) (AMENDMENT) REGULATIONS 2006

2006 No. 142

1. This explanatory memorandum has been prepared by the Vehicle Certification Agency, an Executive Agency of the Department for Transport, and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations amend the Motor Vehicles (EC Type-Approval) Regulations 1998 ("the 1998 Regulations"), in order to implement:

(a) Directive 2005/39/EC, amending Council Directive 74/408/EEC relating to seats, their anchorages and head restraints.
(b) Directive 2005/40/EC, amending Directive 77/541/EEC relating to seat belts and restraint systems.
(c) Directive 2005/41/EC, amending Directive 76/115/EEC relating to seat belt anchorages.

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

None.

4. Legislative Background

4.1 This legislation implements the three EC Directives mentioned in paragraph 2 above.

4.2 Directive 70/156/EEC provides for a system of vehicle type approval. Light passenger vehicles (i.e. passenger vehicles with no more than 8 seats, referred to in Directive 70/156/EEC as Category M1) must be of a type approved as conforming to this Directive before being registered, sold or entered into service for the first time. In order to be so approved, a vehicle must comply with technical requirements specified in other Directives, called the "separate Directives", listed in an Annex to Directive 70/156/EEC.

4.3 The three Directives listed in paragraph 2 amend some of the separate Directives in order to update the technical requirements.

4.4 It is a requirement of the EC type approval system that transposition of these Directives must be carried out, and by a specified date. There is no option.

4.5 The 1998 Regulations implement Directive 70/156/EEC in respect of light passenger vehicles, and the related separate Directives.

4.6 In addition, the Road Vehicles (Construction and Use) Regulations 1986 ("the Construction and Use Regulations"), made under section 41 of the Road Traffic Act 1988, prescribe requirements relating to the construction, use and equipment of vehicles. By virtue of section 42 of the same Act, breach of these requirements, or use of a vehicle in breach, is an offence.

4.7 Like the 1998 Regulations, these Regulations are made under the powers conferred by section 2(2) of the European Communities Act 1972.

5. Extent

This instrument extends to all of the United Kingdom.

6. European Convention on Human Rights

This instrument is subject to negative procedure and does not amend primary legislation. Therefore no statement as to compatibility has been made.

7. Policy background

7.1 Member States are required to transpose the type approval requirements as specified by Directive 70/156/EEC and the Separate Directives. These requirements are constantly being refreshed with amending Directives.

7.2 Directive 2005/39/EC amends Directive 74/408/EEC on vehicle seats. It bans the use of side-facing seats in passenger vehicles. Directive 2005/40/EC amends Directive 77/541/EEC on seat belts. It allows the fitting of seat belts not covered by the Directive, if they are intended for disabled people. In addition, these two Directives also prescribe requirements relating to categories other than M1.

7.3 Directive 2005/41/EC amends Directive 76/115/EEC on seat belt anchorages. It does not prescribe any new requirements for vehicles of category M1. Nevertheless, it has been considered necessary to refer to it in the 1998 Regulations. Since Directives need to be read and interpreted as a whole, even amendments that do not relate to the type-approval of vehicles of category M1 may have an influence on the interpretation of provisions that do. From the point of view of the reader, it will be simpler to be referred to the version of the Directive that is now in force, as opposed to be required, at least in theory, to use a version of the Directives in which some but not all amendments made to date need to be taken into account.

7.5 As far as vehicles of category M1 are concerned, in the UK, by virtue of the Construction and Use Regulations, vehicles already have to be constructed in accordance with identical requirements to those imposed by the above Directives, and could only be used if they complied with such requirements. Nevertheless, since the Construction and Use requirements are not type approval requirements, when granting EC type-approval, the UK type approval authority is not yet required by domestic law to consider compliance with these Directives. As required under EC law, this will change from the entry into force of these Regulations..

7.6 Although implementation of these Directives is mandatory, and it is considered that there is no alternative option but to amend the 1998 Regulations, it has become usual to advise the United Kingdom's automotive industry of the necessary changes and ask their opinions. Representatives of the Industry participate actively in the origination and development of European legislation, and close contact has been maintained during the decision-making process that led to the adoption of the Directives. Following this practice, a consultation letter was circulated by the Vehicle Certification Agency on 28th November 2005 to various involved bodies in order to advise of the imminent transposition and to invite any comment. There were no responses.

8. **Impact**

8.1 As the effect of these amending Directives is merely to impose requirements that are already mandatory in the UK, albeit not yet under the type-approval regime, or to extend requirements to categories of vehicles beyond the scope of these Regulations, there will be no cost impact on the private sector, so it has not been considered necessary to prepare a Regulatory Impact Assessment in respect of these Regulations.

8.2 In view of this, and because this measure merely extends an existing Regulatory regime, it has not been considered appropriate to conduct a full and formal consultation exercise on this occasion. The adoption of this change has, however, been notified to the Society of Motor Manufacturers and Traders (SMMT), who represent the areas of industry most likely to have an interest. We have received no response from them.

8.3 There should be no impact on the public sector.

Contact

Gus Gander of the Vehicle Certification Agency of the Department for Transport, 1 Eastgate Office Centre, Eastgate Road, Bristol BS5 6XX (Tel: 01179 524119; e-mail ggander@vca.gov.uk) can answer questions regarding this instrument.

TRANSPOSITION NOTE

To accompany the Instrument prepared to implement three Directives amending the European scheme for vehicle type approval as transposed into UK law by The Motor Vehicles (EC Type Approval) Regulation 1998 ("the 1998 Regulations").

1. European Parliament & Council Directive 2005/39/EC, amending Directive 74/408/EEC on seats, their anchorages and head restraints.

	Objectives	Implementation	Responsibility
Article 1(2)	Prohibits the fitting of side-facing seats in M1 vehicles, and the approval of types of vehicles that do not comply with these requirements.	Regulation 2 of the instrument amending the 1998 Regulations adds this Directive to the list in Schedule 1 to the 1998 Regulations, which lists requirements to be met for light vehicles to obtain type-approval in the UK, and the amendments to the original requirements	The Secretary of State.
Rest of Article 1	Amends Directive 74/408/EEC in respects that are beyond the scope of the 1998 Regulations, but may have an influence on the interpretation of the whole of the Directive.	Ibid.	The Secretary of State.
Article 2	Sets out the dates when the above will come into effect.	Ibid	Ibid

2. European Parliament & Council Directive 2005/40/EC amending Council Directive 77/541/EEC on seat belts and restraint systems

	Objectives	Implementation	Responsibility
Article 1(1)	Allows the fitting of seat belts not covered by the Directive, if they are intended for disabled people, prevents Member States from refusing type-approval if the vehicles are compliant	Regulation 2 of the instrument amending the 1998 Regulations adds this Directive to the list in Schedule 1 to the 1998 Regulations, which lists requirements to be met for light vehicles to obtain type-approval in the UK, and the amendments to the original requirements	The Secretary of Sate
Rest of Article 1	Amends Directive 77/541/EEC in respects that are beyond the scope of the 1998 Regulations, but may have an influence on the interpretation of the whole of the Directive.	Ibid.	The Secretary of State.
Article 3	Sets out the dates when the above will come into effect.	Ibid	The Secretary of State

3. European Parliament & Council Directive 2005/41/EC amending Directive 76/115/EEC on seat belt anchorages

	Objectives	Implementation	Responsibility
Article 1	Amends Directive 76/115/EEC in respects that are beyond the scope of the 1998 Regulations, but may have an influence on the interpretation of the whole of the Directive	Regulation 2 of the instrument amending the 1998 Regulations adds this Directive to the list in Schedule 1 to the 1998 Regulations, which lists requirements to be met for light vehicles to obtain type-approval in the UK, and the amendments to the original requirements	The Secretary of State.
Article 3	Sets out the dates when the above will come into effect.	Ibid	The Secretary of State