EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (TYPE APPROVAL FOR GOODS VEHICLES) (GREAT BRITAIN) (AMENDMENT) REGULATIONS 2007

2007 No. 361

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

2. Description

These Regulations change the rule under which light goods vehicles may be regarded as "end of series vehicles" which are entitled to exemption from new emissions standards introduced on 1 January 2007.

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

None

4. Legislative Background

4.1 The Motor Vehicles (Type Approval for Goods Vehicles)(Great Britain) Regulations 1982 ("the 1982 Regulations") include emission standards which must be met by new light goods vehicles (LGVs) under 3.5 tonnes in order to qualify for national type approval. Under the 1982 Regulations, LGVs of Class II and III (broadly speaking medium and large vans), are required to meet the emissions standards specified in Directive 70/220/EEC, as last amended by Directive 2002/80/EC, from 1 January 2007.

4.2 The 1982 Regulations include a provision under which a number of a manufacturer's "end of series vehicles" can benefit from a derogation from new emissions requirements as permitted under EC legislation (Article 8(2)(b) of directive 70/156/EEC). Such vehicles are permitted to enter into service for 12 months after the introduction of new emissions requirements whilst meeting the previous emissions requirements which applied to such vehicles.

4.3 The EC legislation specifies two options for setting the number of vehicles which may benefit from such derogations. Under one option, this number is limited to a specified percentage of the vehicles that entered service in the 12 months before the new emissions requirement came into effect. Under the other option, all those vehicles which had received a "certificate of conformity" issued at least 3 months before a new emissions requirement came into effect can benefit from the derogation. Provision for the first option is currently made in Schedule 1C to the 1982 Regulations.

4.4. In respect of LGVs, this instrument replaces the first option in the 1982 Regulations by the second. It also makes consequential changes to the Road Vehicles (Construction and Use) Regulations 1986 ("the 1986 Regulations"). The latter Regulations set the conditions under which vehicles operate on the road.

4.5 Schedule 7XA to the 1986 regulations provides that where (by virtue of the end of series provisions in the 1982 Regulations), the type approval emissions requirements under the 1982 Regulations applicable to a particular vehicle are the same before a new emissions requirement comes into force as they are after it enters into force, the requirements applying to that vehicle under the 1986 Regulations are also the earlier requirements.

4.6. Because this instrument entered into force after the date new emissions requirements entered into force (1 January 2007) it has been necessary to include transitional provisions to the effect that, for the purposes of the 1986 Regulations, the requirements applying to the vehicles which are the subject of this instrument are the earlier emissions requirements.

4.7 The Explanatory Note to this instrument incorporates a Transposition Note in relation to the implementation by this instrument of the EU legislation referred to above.

5. Extent

This instrument extends to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

7.1. Directive 70/220/EEC, as last amended by Directive 2002/80/EC, prescribes tighter emission standards for medium and large vans (classified as Class II and III vans) with effect from 1 January 2007 (the so-called "Euro 4" emissions standards and standards supplementary to these). Implementation of the Directives is mandatory in all Member States. As indicated above, the 1982 and 1986 Regulations make provision for a specified number of a manufacturer's "end of series" vehicles made to a previous emissions standard to continue to be registered and to enter into service, for up to 12 months from the date of implementation of a new Directive. The purpose of this provision is to assist manufacturers to manage the transition to new emissions standards. This is permitted by the framework Directive on vehicle type-approval (Directive 70/156/EEC).

7.2. In the run up to the entry into force of the new emissions requirements manufacturing bodies indicated that, on the basis of statements by the Vehicle Certification Agency of the Department for

Transport, some manufacturers have planned their production on the assumption that more flexibility in calculating the numbers of vehicles entitled to be regarded as "end of series" vehicles would be available than is currently provided in the Regulations. A similar situation existed in respect of a heavy vehicle emissions directive implemented in 2006 (SI 2006 No 2565) Serious financial consequences for sections of the light vehicle manufacturing industry were predicted if the resulting vehicles could not be registered for road use or had to be pre-registered. Fuller details are given in the attached Regulatory Impact Assessment

7.3. To remedy this situation, as with the previous Directive, the existing Regulations have been amended to provide greater flexibility, after consultation with industry, represented by the Society of Motor Manufacturers and Traders (SMMT). As indicated above this has been achieved by changing the formula under which vehicles may be classified as end of series vehicles from 10% of a manufacturer's previous year's registrations to vehicles issued with a certificate of conformity at least three months before a new directive comes into force, as permitted under the framework Directive. The SMMT indicated that, whilst no solution would leave any manufacturer completely unaffected, it was content with this proposed solution, which was the one agreed by all manufacturers as being the least costly overall. The alternative solution of increasing the percentage allowance to the 30% maximum permitted under the framework Directive (as adopted for the heavy vehicle emissions directive) was rejected by industry as on balance it would result in greater overall losses.

8. Impact

8.1. A Regulatory Impact Assessment is attached to this Memorandum.

8.2. There is no impact on the public sector.

9. Contact

Tony Baker at the Department for Transport (tel: 020 7944 2063 or email: tonyt.baker@dft.gsi.gov.uk) can answer any queries regarding the instrument.

REGULATORY IMPACT ASSESSMENT

END OF SERIES RULES FOR LIGHT DUTY GOODS VEHICLE EMISSIONS STANDARDS

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1. Title of proposed regulation

The Motor Vehicles (Type Approval for Goods Vehicles)(Great Britain)(Amendment) Regulations 2007.

2. Purpose and intended effect

2.1 Objective

To ensure a smooth transition for industry to new emissions standards for light good vehicles which have effect from 1 January 2007

2.2 Background

2.2.1 Vehicle emission standards

Mandatory emission standards for new light goods vehicles up to 3.5 tonnes gross weight are currently defined by European Directive 70/220/EEC (as amended). For convenience, the standards are generally referred to as "Euro" standards. Different standards apply to petrol and diesel vehicles and light good vehicles, or vans, are subdivided into three weight classes.

These standards have been gradually tightened over the last decade and as of 1st January 2007 newly registered medium and large (class II & III, as defined by point 5.3.1.4 of Annex I to Directive 70/220/EEC, as substituted by Directive 98/69/EC) vans have to meet the Euro 4 standard. The regulated pollutants are carbon monoxide, hydrocarbons, oxides of nitrogen (NO_x) and, in the case of diesel-engined vehicles, mass of particulate matter (PM).

In Great Britain, for vehicles subject to national type approval, the standards for these vehicles are made mandatory by the Motor Vehicles (Type Approval of Goods Vehicles) Regulation 1982, as amended.[1]

2.2.2. "End of series" rules

In order to facilitate the transition to more stringent requirements, the European Type Approval Framework Directive (70/156/EEC as amended) allows Member States to permit the registration/entry into service of a limited number of "end of series production" vehicles whose type approval is no longer valid due to the entry into force of a more stringent type approval requirement. Under the directive Member States must restrict the number of vehicles entering into service under this procedure by ensuring either that

[1] Type approval is the process which ensures that vehicles, their systems and components, meet the appropriate environmental and safety standards.

a) the maximum number of vehicles of one or more types (in the case of categories of vehicles other than M1 (passenger vehicles) does not exceed 30% (10% for cars) of the vehicles of all types concerned put into service in that Member State during the previous year, or 100 vehicles, whichever is the greater; or

b) only vehicles for which a valid certificate of conformity was issued on or after the date of manufacture and which remained valid for at least three months after its date of issue but subsequently lost its validity because of the coming into force of a new separate Directive are permitted to enter service. In practice this means vehicles manufactured at least three months before a new type approval requirement entered into force.

The 1982 Regulations, as amended, currently incorporate the former percentage option though under its original terms of 10% or 50 vehicles. The draft Regulations are intended to substitute the latter "three month" option.

3. Rationale for Government Intervention

Manufacturers of medium and large vans have indicated that some had planned their production assuming the 10% rule would apply at the transition to Euro 4 whilst others had anticipated that the 3 month rule would apply.

A move to the 3 month rule for all end of series arrangements has been under consideration by the Department for some time but no decisions had been made to amend the regulations. However, the Vehicle Certification Agency (who administer the end of series provisions) had stated on their website that either option (10% or 3 months) would be allowed at the transition to Euro 4 for light vans. Manufacturers had therefore chosen whichever option was most appropriate to them and planned production on this basis. Those who had planned on the basis of the 3 month option being available have indicated that there could be serious financial consequences for them if the current percentage option is retained in regulations. Those who had planned on the basis of the percentage option being available would also face financial consequences if this option were removed. However, allowing manufacturers a choice between the two options would be contrary to the European Type Approval Framework Directive. In order to limit the financial consequences for industry it is therefore necessary to amend the regulations to substitute an alternative single formula which is acceptable to Government and industry as a whole.

4. Simplification Measures & Administrative Burdens

Substitution of the 3 month rule - which is the solution proposed in the regulations - would be easier to comprehend and administer for manufacturers as well as being administratively simpler for the VCA to process and enforce. For manufacturers, an alternative means of registering unsold Euro 3 vans is to have them approved via the Single Vehicle Approval scheme which applies emissions requirements according to the date of

manufacture, rather than date of registration, of the vehicle. Use of the Single Vehicle Approval system would, however, involve some additional administrative work and cost for those manufacturers who had to use this route to register their vehicles. The implementation of the 3 month end of series derogation therefore reduces these burdens by enabling more vehicles to be registered via the end of series derogation rather than Single Vehicle Approval.

5. Consultation

The Department has consulted with the SMMT and those of its members affected by the position on the end of series arrangements for light vans. Whilst no solution would leave any manufacturer completely unaffected, the industry as a whole declared in favour of a switch to the 3 month rule as on balance being the least costly option overall. Due to time constraints it has not been possible to consult more widely on the regulations.

6. Options

6.1 Option 1: Retain the "10% or 50" rule currently in regulations. Whilst this would be acceptable to those manufacturers who had planned on this basis it would not be acceptable for dealing with the concerns of the majority of manufacturers who have planned on the basis of the 3 month option being available.

6.2 Option 2: Increase the percentage option to 30% or 100. This option would also not be sufficient to deal with the concerns of the majority of manufacturers who had planned on a 3 month basis.

6.3 Option 3: Substitute the 3 month rule for the current percentage provision. This option is favoured by the majority of manufacturers and is the position agreed by all manufacturers as being the least costly overall.

7. Costs and Benefits

7.1 Sectors and Groups Affected

The proposed Regulation will affect manufacturers of light goods vehicles. There are five manufacturers of these vehicles (mainly vans) in the UK. A wide range of manufacturers import vans into the UK.

In terms of current manufacturing output, 184,575 vans (incl. minibuses) were produced in the UK in 2005. Of these some 115,000 were exported. Around 90% of van exports were to other EU countries. In 2005 there were 322,930 new vans registered in the UK. These figures include Class 1 vans which have been subject to Euro 4 requirements since the beginning of 2006.

7.2 Benefits

7.2.1 Option 1: Retain 10% or 50 rule

7.2.1.1. Economic

There would be economic benefits for the minority of manufacturers for whom this option is most suitable and who have therefore planned on this basis. No information is available to quantify such benefits.

7. 2.1.2. Environmental

This option would, in theory, produce air quality benefits. However, since the vehicles concerned already exist, those which did not qualify would have entered into service in any event either by manufacturers pre-registering them and selling them as second hand or by seeking registration through the Single Vehicle Approval procedure.

7.2.1.3 Social

There would be no social benefits in retaining the existing provisions.

7.2.2 Option 2: Increase percentage option to 30% or 100 vehicles

7.2.2.1 Economic

Benefits would be as indicated at 7.2.1.1.above though with the potential for some further savings. From information supplied by the SMMT, at least two manufacturers have indicated that all of their remaining Euro 3 stock could be registered under this option at no extra cost to them.

7.2.2.2. Environmental

As indicated in 7.2.1.2. above, as these vehicles already exist there would be no environmental benefits arising from this option.

7.2.2.3 Social

There would be no social benefits in adopting this option.

7.2.3 Option 3: Substitute the "3 month rule" for the percentage rule

7.2.3.1 Economic

Three manufacturers have indicated that all their vehicles could be registered under this option at no extra cost to them.

7. 2.3.2 Environmental

As indicated above, as these vehicles already exist there would be no environmental benefits arising from this option.

7.2.3.3 Social

There would be no social benefits in adopting this option.

7.3 Costs

7.3.1 Option 1: Retain the existing "10% or 50" rule

7.3.1.1 Economic

Although precise cost estimates for this option were not provided, it is logical to conclude from figures provided in respect of the other options that this would be the most costly option overall and in particular for those manufacturers which have planned on the basis of the 3 month option being available.

7.3.1.2. Environmental

As indicated above there would be no environmental impact from choice of this option.

7.3.1.3 Social

There would be no social costs arising from this option.

7.3.2 Option 2: Increase the percentage option to "30% or 100 vehicles"

7.3.2.1. Economic

One manufacturer has indicated that 686 of their vehicles could not be registered under this option, another that 994 of their vehicles could not be registered. A total of £24 million in lost vehicle sales is estimated. The SMMT has indicated that these are not complete figures however. Some large manufacturers -those who, having greater control over such factors as vehicle assembly, generally tend to favour the 3 month option - were not able to provide cost figures in the time available.

7.3.2.2 Environmental

As indicated above there would be no environmental cost from choice of this option.

7.3.2.3 Social

There would be no social costs arising from this option.

7.3.3 Option 3 Substitute the "3 month rule" for percentage option

7.3.3.1 Economic

One manufacturer has indicated that 69 vehicles could not be registered under this option another that 400 could not be registered. Estimated cost for

SVA for these vehicles is about £14K. As indicated above, in general manufacturers see this as the least costly option overall.

It should also be noted that because of the length of the regulatory process, it was not possible to amend the regulations before the 1 January 2007 date when the new Euro 4 emissions requirements had effect. Consequently manufacturers who had originally planned their production on the basis of the existing 10% or 50 regulated option still being in place are also able to register their vehicles under this option until the new regulations have effect, thus reducing their costs.

7.3.3.2 Environmental

As indicated above there would be no environmental cost from choice of this option.

7.3.3.3 Social

There would be no social costs arising from choice of this option.

8. Small Firms Impact Test

Production of light goods vehicles is predominantly carried out by large multinational firms. Certain vehicles produced by smaller independent manufacturers such as ambulances and motorhomes - which also fall within the scope of the emissions directive - are not subject to the type approval regulations. They should not therefore be affected by these regulations. Flexibility for end of series vehicles in this category is already provided for under the Road Vehicles (Construction & Use) Regulations using the 30% rule.

9. Competition Assessment

The sector affected by the regulations is the UK light goods vehicle market. The regulations are not expected to have a major impact on competition despite this market being dominated by a small number of large manufacturers. The ultimate cost impact of the regulations will vary according to the option to which manufacturers had originally planned their production. Any such cost differentials are unlikely to be such as to affect the competitive position of individual firms. Overall the regulations will reduce the impact to industry resulting from the current situation and by broadly addressing industry's concerns, are likely to avoid possible effects on the market structure and to minimise any negative effect on international competitiveness. The regulations will not create higher costs for new manufacturers compared to existing manufacturers.

10. Enforcement, Sanctions and Monitoring

Administration of the end of series arrangements is carried out by the Vehicle Certification Agency. Enforcement of the arrangements is through the type

approval process and via registration checks of vehicle "certificates of conformity" by the Driver and Vehicle Licensing Agency. The proposed Regulation would not necessitate any changes to these procedures but should make identification of qualifying vehicles easier.

11. Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1 (10% rule)	Economic benefits (unquantified) for minority of manufacturers. No environmental or social benefits.	Cost estimates not provided by industry but likely to be most costly option overall. No environmental or social costs
2 (30% rule)	Additional economic benefits compared to option 1: at least 2 manufacturers could register all their stock under this option.	£24 million loss predicted by 2 manufacturers. Other large manufacturers likely to be adversely affected were not able to provide figures.
3 (3 month rule)	At least 3 manufacturers could register all their vehicles under this option. Preferred option for manufacturers as a whole.	Two manufacturers have indicated inability to register total of 469 vehicles under this option. DfT estimate SVA cost of £14,000 for such vehicles.

12. Summary and recommendation

The **preferred option is Option 3**.

Whilst this option may involve some cost to certain sections of the light goods vehicle industry it is nevertheless the least costly option overall, does not have environmental disbenefits, is simpler to administer for industry and the VCA and aligns with current arrangements for light passenger vehicles.

13. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed S.J. Ladyman**.**

Dr Stephen Ladyman
Minister of State for Transport
Department for Transport

Date 10th February 2007.

14. Contact point for enquiries and comments:

Tony Baker, Department for Transport, Zone 2/15, Great Minster House, 76, Marsham Street, London SW1P 4DR. Tel: 020 7944 2063, Fax: 020 7944 2605, E-mail: TonyT.Baker@dft.gsi.gov.uk