EXPLANATORY MEMORANDUM TO

THE NON-ROAD MOBILE MACHINERY (EMISSION OF GASEOUS AND PARTICULATE POLLUTANTS) (AMENDMENT) REGULATIONS 2014

2014 No. 1309

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

2. Purpose of the instrument

2.1 These Regulations transpose into UK law the changes made to Directive 97/68/EC ("the 1997 Directive") by Directive 2012/46/EU ("the 2012 Directive") which are necessary to ensure that the emissions reduction devices fitted to engines meeting the Stage IV emissions standard perform as intended, and to ensure that other approvals that are equivalent to the Stage IV standard are recognised as such. The 1997 Directive relates to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ("NRMM"). The purpose of these Regulations is to put in place detailed requirements, primarily related to the type approval of engines to the Stage IV standard that was introduced into the 1997 Directive by Directive 2004/26/EC, and to update the references to equivalent type approvals.

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

3.1 There are no matters of special interest to the Joint Committee on Statutory Instruments.

4. Legislative Context

4.1 The term NRMM refers to mobile machines, transportable industrial equipment or vehicles which are fitted with an internal combustion engine and not intended for transporting goods or passengers on roads. The term covers machinery powered by compression-ignition ("CI") engines (which are diesel engines), including inland waterway vessels, railway locomotives, road-making machinery, combine harvesters and excavators. It also covers some small machinery powered by spark-ignition ("SI") engines (which are petrol engines), such as lawnmowers, hedge trimmers, chainsaws and portable generators.

4.2 The objective of the 1997 Directive is to harmonise the laws of Member States relating to exhaust emission standards and type approval procedures for engines to be installed in NRMM ("type approval" refers to the process by which engines are certified as meeting legal requirements with respect to minimum safety and technical standards).

The Directive is intended to contribute to the smooth running of the internal market, whilst protecting human health and the environment.

4.3 The 1997 Directive sets maximum limits on permissible exhaust pollutant emissions for engines for machinery when they are placed on the market for the first time. It has been amended several times to make the limits more stringent in "stages".

4.4 The 1997 Directive was originally transposed into United Kingdom law by the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 (SI 1999/1053) ("the 1999 Regulations"). These Regulations amend the 1999 Regulations so as to give effect to the amendments made to the 1997 Directive by Directive 2012/46/EU.

4.5 A transposition note is supplied with this Memorandum, and indicates how amendments to the relevant provisions of the 1997 Directive have been incorporated into UK legislation.

4.6 Directive 2012/46/EU is a Commission Directive implementing technical matters and has not been subject to previous Parliamentary scrutiny.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

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

- What is being done and why

7.1 The 1997 Directive sets exhaust emission limits and dates of application for a series of progressively more demanding emission standards which engines must meet if they are to be approved and placed on the market. These standards are referred to as "stages," and the engine power categories to which they are applied are referenced alphabetically in the legislation. Directive 2004/26/EU introduced the Stage IV standard into the 1997 Directive, and new engine types in some categories now have to be approved to that standard. The relevant categories are "Q," for which type approvals to the Stage IV standard have been mandatory since the 31st of December 2012, and "R," for which type approvals to the Stage IV standard have been mandatory since the 30th of September 2013.

7.2 Although Directive 2004/26/EU introduced the Stage IV standard into the 1997 Directive, it left for finalisation at a later date some detailed requirements associated with

the type approval of engines to that standard. Those of the detailed requirements which were essential for type approval, and so essential in order for engines to continue to be produced and placed on the market, were put in place by Directive 2010/26/EU. The 2012 Directive finalised the detailed requirements by putting in place those that ensure that the emissions reduction devices fitted to engines type approved to the Stage IV standard perform as intended when in service. It extends, at the same time, the list of alternative type approvals that are to be recognised as equivalent to type-approvals granted under the terms of the 1997 Directive. The 2012 Directive also improves, in response to requests from industry, the labelling system used for small spark ignition engines.

- Consolidation

7.3 There is no intention to consolidate the 1999 Regulations at this time.

8. Consultation outcome

8.1 Due to the highly technical subject matter of these Regulations and the limited options regarding transposition of the relevant EU requirements, the Department has not engaged in a full public consultation in relation to these Regulations. Rather than a formal consultation taking place, the Department maintained contact with trade associations and with individual companies with an interest in the subject throughout the process of policy development and negotiation that led to the adoption of Directive 2012/46/EU, and has continued to engage closely with them on an ongoing basis. Industry representatives were closely involved in drafting the text of the Directive and the Directive enjoys a high level of support from industry.

9. Guidance

9.1 The manufacturers and importers of NRMM, which are specialised businesses, are generally familiar with the requirements contained in these Regulations. The Vehicle Certification Agency publish regular guidance on legislative matters likely to be of interest to manufacturers of vehicles and NRMM, most recently in the Summer 2013 issue of their newsletter, when the changes introduced by the 2012 Directive were one of the topics covered. Additional guidance is considered unnecessary.

10. Impact

10.1 The impact on charities or voluntary bodies is nil. The impact upon businesses is nil or negligible. The Regulations formalise requirements associated with the Stage IV standard which have been anticipated by industry for some time. All of the costs associated with the elements of the standard dealt with by this measure were included in the original Impact Assessment of the Stage IV standard carried out in January 2006, and have already been absorbed by manufacturers. We have judged it disproportionate, in these circumstances, to attempt to identify areas where the original estimates might now be seen to have been inaccurate and to attempt to establish whether the aggregate of those inaccuracies would lead to a larger or smaller overall cost estimate for the elements

concerned. This could only be properly achieved, in practice, by undertaking a full impact assessment of the Stage IV standard that could be directly compared with the earlier assessment. Such an Impact Assessment would be both expensive and time consuming. By delaying transposition it would put United Kingdom industry at a disadvantage, delay the application of the Stage IV standard, and put the United Kingdom at risk of infraction proceedings.

10.2 The impact on the public sector is nil (other than the cost of conducting a review in accordance with regulation 22 of the 1999 Regulations).

11. Regulating small business

11.1 The legislation applies to small business. No engine manufacturers, and few builders of NRMM, are small businesses. Many owners and operators of non-road machines, however, are small businesses. Owners and operators of non-road machines are affected by the legislation to the extent that it requires manufacturers to fit systems, similar to those fitted to lorries, which encourage the maintenance of emissions reduction devices in working order.

12. Monitoring & review

12.1 The 1999 Regulations include a statutory requirement in regulation 22 for a review to be held no later than five years from 30th September 2011 (the review clause was introduced by a previous amending instrument). In light of the review clause, the amendments made by these Regulations will be reviewed by the Secretary of State before 30th September 2016, and the conclusions will be published in a report. In addition the Vehicle Certification Agency will monitor and review the effect of these Regulations as part of their enforcement duties (in relation to Great Britain).

13. Contact

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