EXPLANATORY MEMORANDUM TO
THE PUBLIC SERVICE VEHICLES (CONDITIONS OF FITNESS, EQUIPMENT, USE AND CERTIFICATION) (AMENDMENT) (No.3) REGULATIONS 2005

2005 No. 2986

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 amend the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981 (SI 1981/257)(CoIF) so that compliance with EC Directive 2001/85/EC is offered as an acceptable means of compliance to the current prescribed conditions as to fitness of public service vehicles.

2.2. Directive 2001/85/EC sets standards for the bodywork of larger vehicles including minibuses, buses and coaches (classes M2 and M3). The provisions include requirements for stability, electrical equipment, seat spacing, step heights, gangway requirements, entrances, exits and doors.

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

3.1 None

4. Legislative Background

4.1 The Public Passenger Vehicles Act 1981 requires that a vehicle adapted to carry more than 8 passengers and used as a public service vehicle shall not be used on the road unless a certificate indicating that prescribed conditions of initial fitness have been fulfilled. Part II of CoIF prescribes those conditions of initial fitness .

4.2 Compliance with the Directive offers an acceptable alternative means of meeting the domestic requirements, and a new regulation 4A of CoIF gives legal effect to the Community obligation to ensure that vehicles which comply with the Directive are not refused or prohibited from sale, registration or entry into service (article 2.1).

4.3 The original proposal for the Directive was the subject of an unnumbered Explanatory Memorandum dated 30 September 1997 and later numbered EM 9734/97 which was cleared by the Commons European Scrutiny Committee on 3 December 1997 (9th Report session 1997-98, reference 18413). The Committee recommended that the document was "politically important" and requested further information. A Ministerial letter was sent on 8 December 1997 which

was considered on 14 January 1998 (12th report session 1997-98). The Committee maintained its recommendation that the document was "politically important" and cleared it. A further update on the developments in the Directive's proposals was sent by letter on 11 April 2000.

4.4 The House of Lords Select Committee on the European Union referred the EM to Sub-Committee B; it was cleared by letter to the Minister on 28 April 1998. The Committee was also updated on these proposals by letter on 11 April 2000.

4.5 A further Explanatory Memorandum (8551/01) was put to both Committees, at the end of June 2001, referring to the Commission's opinion on the European Parliament's amendments to the Council's common position. The Lord's Committee cleared this on 26 June 2001. Before the Common's Committee cleared the EM, The Conciliation Committee approved a joint text of the proposed Directive. The text was then adopted as a Directive as an "A" Point at Council on 8 October 2001. The Minister wrote to both Committees on 5 November 2001 apologising that the Department had not had time to prepare a formal EM on the Conciliation Committees joint text before adoption. He pointed out that the changes to the text were outlined in EM 8551/01 and that those contained within the approved Conciliation Committees joint text were minor and did not affect the substance of the Directive.

4.6 The Common's Committee deemed EM 8551/01 as "politically important" and cleared it (Report No.4 Session 2001-02). They also wrote to the Minister on 14 November 2001, in response to his letter of 5 November, noting his apology and requesting that in future they be notified promptly of developments.

4.7 The Lord's Committee replied to the Minister on 27 November following the consideration of his letter by Sub-Committee B at its meeting of 26 November 2001. They noted that it had been formally adopted and agreed that it was right to accept the final version.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

No statement is required.

7. Policy background

7.1 Directive 2001/85/EC /EC is optional and sits alongside national requirements for vehicle standards.

7.2 Proposed EC legislation will extend the whole vehicle type approval concept (ECWVTA), as currently applied to cars, to larger vehicles including M2 and M3 types. The EC Directive 2001/85/EC which will form part of the ECWVTA regime has already been incorporated into GB Type Approval Regulations allowing it to be implemented into GB legislation by the infraction deadline of 13 August 2003.

7.3 EC Directive 2001/85/EC concerns the interior layout and access to minibuses, buses and coaches it affects many areas of bus construction, including access for people with disabilities. Amendments are required not only to COIF but also to the Public Service Vehicles Accessibility Regulations 2000 and The Road Vehicles (Construction and Use) Regulations 1986. All the amending regulations will come into force simultaneously.

7.4 Amendments to these three sets of regulations will allow the Directive to be used as an alternative to the relevant provisions currently required by them.

7.5 Three hundred and three organisations and interested parties throughout the United Kingdom were consulted on the draft regulations. This was initiated by a letter dated 7 April 2004which enclosed the draft Statutory Instruments and Preliminary Regulatory Impact Assessment Document. Replies were requested by 30 June 2004

7.6 Those consulted included Disabled Persons Transport Advisory Committee, manufacturers and operators of buses and coaches and their trade organisations, highway authorities, and the police. Organisations concerned with road safety, and those that represent bus and coach users were also included in the consultation, as well as other Government Departments likely to be effected by these changes.

7.7 DfT received six responses from the consultation of which four had either no comments or accepted the proposals fully.

7.8 Only two organisations made minor points and they have bee answered on the issues they took up.

7.9 The results of the consultation will be published through the inclusion of this document on the Department's website.

8 Impact

8.1 There will be no risks or costs attached to the recognition of this Directive in this domestic regulation, as manufacturers are already

permitted to build their vehicles to the specifications set out in the Directive.

9. Contact

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REGULATORY IMPACT ASSESSMENT

1. Title

Proposal for the reform of national regulations governing the construction and use of minibuses, buses and coaches

2. Purpose and intended effect of the measure

2(i) The issues and objectives

Issue:

Current National legislation for the construction and use of minibuses, buses and coaches (EC vehicle categories M2 and M3) is spread through a number of regulations which themselves emanate from various acts of Parliament. This results in a regime which is complex for constructors and operators to understand and apply, and difficult to administer.

The publishing of an EC Directive 2001/85/EC covering M2 and M3 in February 2002 results in the need to review and revise large sections of that national legislation.

The draft EC directive for replacement of the EC Type approval Framework Directive (70/156/EEC), which is under consideration currently, proposes the extension of the EC Whole Vehicle Type Approval (ECWVTA) to M2 and M3 vehicles over the next 5 years, on an optional basis from about 2006 and on a mandatory basis from about 2008 which will have consequential effects on UK legislation.

Objective

To take the opportunity that the regulatory situation offers to review the structure and content of national regulations and, where appropriate, align them, with a view to producing a simplified package which concentrates on safety and environmental aspects and is laid out in a more intelligible manner leading to less ambiguous interpretation and application.

Options

Option 1: To continue to modify the existing national regulations piecemeal to accommodate the impact of EC Directives as they come into force.

This approach leads to a situation where interpretation and precedent take the place of clear unambiguous statements of requirement. Much time and effort are expended by constructors, users and regulators in achieving consensus. Lack of transparency reduces public confidence in the adequacy of the regulations.

Option 2: To take a more fundamental approach to the opportunity offered and formulate a small comprehensive group of regulations aimed specifically at the M2 and M3 categories of vehicle, and governing their approval, construction and use.

A simplified package of regulations, which concentrates on safety and environmental aspects and is laid out in a more intelligible manner, will lead to less ambiguous interpretation and application. This will, in turn, reduce the administrative load on constructors, operators and regulators and increase public awareness of the reasoning behind legislation. A by-product of a thorough review will be that any redundant regulations can be eliminated.

3(ii) Issues of Equity and Fairness

Option 1

British manufacturers and operators would continue to be faced with a complex national regulatory regime subject to piecemeal changes, out of line with EC type approval, whilst we are obliged to accept vehicles built to the EC requirements. This would be likely to give a competitive advantage to the importers. Also, enforcement authorities would continue to be faced with requests to interpret the regulations, which can also lead to perceptions of uneven treatment.

Option 2

Transparent regulations aligned to the EC requirements will result in a fairer regime for all concerned.

4 Benefits

Option 1:

Requires marginally less resource to implement than Option 2 and can be spread over a longer time-scale.

Option 2:

Provides a clear unambiguous statement of the purpose and scope of regulations. Reduces repetitive administrative costs in interpretation of regulations, for both industry and government by a wide-ranging revision and simplification of regulations.

Provides clear alternatives for approval to suit both large and small manufacturers, thus minimising costs, while maintaining high standards of safety, environmental protection and accessibility.

Alignment with EC legislation will in some respects simplify the design and construction of vehicles and will enable British manufacturers to get used to the concept of whole vehicle type approval before ECWVTA is implemented. It should

therefore facilitate exports by UK manufacturers and improve their competitive position.

Such a revision would give a clearer statement of requirements, duties and responsibilities for the operator, the travelling public and those charged with regulating the industry.

5. Compliance Cost for Businesses, Charities and Voluntary Organisations

5(i) Business Sectors affected

Four groups will be affected;

(a) Manufacturers
(b) Operators
(c) Foreign manufacturers and importers
(d) Regulators and enforcers (i.e. Government and agencies)

5(ii) Costs

Option 1

No figures are available from industry for the cost of maintaining knowledge and expertise in the existing regulations, nor is it possible to quantify the barrier to small manufacturers and new entrants to the industry, which the present regulatory regime represents. However, the level of queries to the Department concerning the application of regulations to vehicles in construction and in service, suggests that clearer, consolidated regulations would be welcomed and would reduce administrative costs.

Industry has sought to avoid the problem at build by opting for approval by inspection of each individual vehicle, with the attendant risk of rejection resulting in costly rework of the vehicle and any others of a similar type already constructed. The vehicle constructors also carry the costs of delivery of vehicles to test stations, attendance at inspections, the inspections themselves and the delays resulting from rejections.

Option 2

Manufacturers will see a reduction in the costs resulting from a choice of approval methods. They will be able to choose the method that best suits their situation, rather than having to submit each vehicle for detailed inspection.

Operators and users of non-PSVs will benefit from the introduction of verification that new vehicles do in fact meet the legal safety, accessibility and environmental standards. However, manufacturers of these vehicles will bear the cost of approval, which they are likely to pass on to purchasers. Based on the current fee structure, the cost per vehicle is likely to be approximately £175. Given an overall vehicle price ranging from c. £20,000 (minibus) to c. £60,000 (midibus), it is considered that this is a reasonable price to pay for this assurance. Savings to those operators accruing from clearer, simpler regulations covering modification, maintenance, and periodic testing will to a greater or lesser degree offset this initial cost.

6. Small Business Litmus Test

Small businesses, both manufacturers and operators, will benefit from the clearer regulations offered by Option 2. They will also benefit from the introduction of alternative approval methods aimed at minimising costs, while maintaining standards. Those who have an interest in exporting will benefit from the alignment of standards with the EC.

7. Results of Consultations

Three hundred and three organisations and interested parties throughout the United Kingdom were consulted on the draft regulations. This was achieved by a letter formally enclosing the draft Statutory Instruments and Preliminary Regulatory Impact Assessment Document. This package was sent out on 7 April 2004 and replies were required by 30 June 2004

Those consulted included DPTAC, manufacturers and operators of buses and coaches and their trade organisations, highway authorities, the police. Organisations concerned with road safety, and those that represent bus and coach users were also included in the consultation, as well as other Government Departments likely to be effected by these changes.

We received six responses from the consultation of which four had either no comments or accepted the proposals fully.

Only two organisations minor points and they have been answered on the issues they took up

The results of the consultation will be published through the inclusion of this document on the Department's website.

8. Competition Assessment

An assessment of the likely effects on competition ('using the competition filter') has concluded that there will be no detrimental effect on competition as a consequence of implementing the requirements of this Directive.

9. Summary and Recommendations

The UK has to accept EC Directives and their impact on national regulation. National regulations affecting minibuses, buses, and coaches have grown in complexity and scope over the years. The requirement to incorporate Directive 2001/85/EC (concerning the interior and accessibility of buses) and prepare for the introduction of EC Whole Vehicle Type Approval for these vehicles presents an ideal opportunity for a thorough review of the national regulations for the purpose of simplification, clarification and, where appropriate, reduction of regulatory burden as outlined in Option 2.

10. Enforcement, sanctions, monitoring and review.

Enforcement will be simplified since all minibuses, buses and coaches will be required to have a construction approval certificate in order to be registered and enter service.

In service, the requirement to maintain the condition of vehicles and the duties of operators will be stated in a simple, transparent fashion. By making regulations more straightforward, clear audit points will be established for the regulatory bodies without the penalty of extra, onerous data collection routines
Review and consequent revision will be facilitated by transparent regulations set out in a way, which can be easily amended.

Regulatory Quality

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by

S.J. Ladyman
Minister of State for Transport

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