EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT No.2) REGULATIONS 2011

2011 No. 3065

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 This instrument contains two separate elements and amends the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) ("the 1986 Regulations").

2.2 Regulations 61C of the 1986 Regulations provides exemptions from new EU emissions standards, for defined periods of time, for "end-of-series" light goods vehicles so that they may be sold for additional periods even though they do not meet those new EU emissions standards. Regulation 4 replaces Regulation 61C of the 1986 Regulations with an amended version which extends the categories of end-of-series light goods vehicles to include N_1 class II and III vehicles (goods vehicles over 1305kg reference mass and below 3500kg maximum permissible laden mass) and N_2 goods vehicles of less than 2610kg reference mass. Regulation 61C has the effect of deeming the end-of-series vehicles in question to meet the relevant EU emissions standards for set periods of time, at the end of which periods, the EU standards will in fact apply.

2.3 As a result, these end-of-series vehicles may continue to be registered after the EU emissions standards initially take effect (as a matter of EU law). The period for which the end-of-series vehicles may continue to be registered is a further 12 months in respect of "complete" vehicles manufactured in a single stage and 18 months in respect of "completed" vehicles manufactured in multiple stages. In the case of the new categories of end-of-series vehicles (N_1 class II & III and N_2 vehicles of less than 2610kg reference mass), the emissions standard with which the vehicles are deemed to comply is Regulation (EC) No 715/2007, which requires new vehicles in these categories to meet the "Euro 5" emissions standard from 1st January 2012.

2.4 Complete N_1 class I vehicles are now removed from Regulation 61C as the period for which N_1 class I vehicles which do not comply with Euro 5 can continue be registered expires on 1st January 2012, prior to the entry into force of this instrument.

2.5 New Regulation 61C also makes consequential amendments to the end-of-series exemptions from Regulation (EC) No 595/2009 for category N_2 vehicles to reflect the fact that N_2 vehicles of less than 2610kg reference mass now fall within the scope of Regulation (EC) No 715/2007 rather than Regulation (EC) No 595/2009. The amendments to the exemption from Regulation (EC) No 595/2009 also extend the duration of the exemption to 18 months in respect of completed multi stage build vehicles.

2.6 Regulation 5 inserts a statutory obligation to review Regulations 61, 61A and 61B (which deal with vehicle emissions requirements) of the 1986 Regulations within 5 years of the new instrument coming into force.

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

3.1 None.

4. Legislative Context

4.1 These Regulations are made under powers conferred by section 41(1), (2) and (5) of the Road Traffic Act 1988, which are confined to Great Britain and by section 2(2) of the European Communities Act 1972.

4.2 New vehicles must comply with air pollutant emissions standards set out in EU Directives and Regulations. These standards have been successively tightened over time. The "Euro 5" emissions standard contained in Regulation (EC) No 715/2007 becomes mandatory for new cars and lighter goods vehicles registered from 1st January 2011 or 1st January 2012 (depending on vehicle category) superseding the "Euro 4" emissions standard in Directive 70/220/EEC as amended.

4.3 Article 27 of the vehicle type approval framework Directive 2007/46/EC ("the Framework Directive") permits Member States to implement "end-of-series" exemptions (commonly referred to as "derogations") in respect of new vehicle construction standards (including air pollutant emissions standards). These exemptions permit vehicles which were manufactured prior to the effective date of the new standards (and which only comply with the previous standards) to continue to be registered for a limited period after the effective date of the new standard. This is intended to enable manufacturers to sell off vehicles remaining in stock on the date the new standards take effect. The exemptions permit vehicles manufactured in a single stage to be registered for a further 12 months and those manufactured in multiple stages to be registered for a further 18 months after the date the new standard takes effect. Member States may offer either a "percentage rule" exemption, under which a number of vehicles up to 10% (for cars) or 30% (for other vehicles) of the previous year's sales may be registered by way of exemption, or a "3 month rule" under which any vehicles manufactured at least 3 months prior to the effective date of the new standard may be registered by way of exemption.

4.4 The existing Regulation 61C of the 1986 Regulations implements end-of-series exemptions from EU air pollutant emissions regulations for certain categories of goods vehicles, using the 3 month rule approach. The vehicle categories covered by the existing regulation 61C of the 1986 Regulations and the emissions standards from which they are exempted are summarised in the table below.

Vehicle Category	Definition	Emissions Standard from which Vehicle is Exempted
N_1 class I	Goods vehicles • less than 3,500kg maximum permissible	Regulation (EC) No 715/2007

	laden mass; and • less than 1,305kg reference (unladen) mass	
N_2	Goods vehicles • greater than 3,500kg maximum permissible laden mass; and • less than 12,000kg maximum permissible laden mass	Regulation (EC) No 595/2009
N_3	Goods vehicles • greater than 12,000kg maximum permissible laden mass	

4.5 Regulation 4 replaces Regulation 61C with an amended version that now implements exemptions from Regulation (EC) No 715/2007 for N_1 class II and III vehicles (goods vehicles over 1305kg reference mass and below 3500kg maximum permissible laden mass) and N_2 vehicles of less than 2610kg reference mass. It effectively delays the application of Regulation (EC) No 715/2007 by 12 months for complete end of series vehicles manufactured in a single stage and by 18 months for completed end of series vehicles manufactured in multiple stages, as permitted by Article 27(2) of the Framework Directive. It does this by deeming that end-of-series vehicles fulfil the requirements of Regulation (EC) No 715/2007 during this period.

4.6 The revised version of Regulation 61C inserted by Regulation 4 now excludes complete N_1 class I vehicles, as the period for which end-of-series vehicles in this class could be registered will have expired by the date that the new instrument enters into force. The revised Regulation 61C does however include completed end-of-series vehicles in category N_1 class I manufactured in multiple stages. It deems that the requirements of Regulation (EC) No 715/2007 are met in respect of these vehicles up until 30th June 2012 (18 months after the date that these vehicles would otherwise have had to comply with Regulation (EC) No 715/2007).

4.7 The revised version of Regulation 61C also makes consequential amendments to the end-of-series provisions in respect of Regulation (EC) No 595/2009 to reflect the fact that N_2 vehicles of less than 2610kg reference mass now fall within the scope of Regulation (EC) No 715/2007 rather than Regulation (EC) No 595/2009. The amendments also extend the period for which the requirements of Regulation (EC) No 595/2009 are deemed to be met, in respect of completed multi stage build N_2 vehicles of greater than 2610kg reference mass, to 18 months.

4.8 Regulation 31 of the Road Vehicles (Approval) Regulations 2009 (S.I. 2009 No.717) ("the 2009 Regulations") already contains provisions permitting end of series vehicles to continue to be registered for a further 12-18 months after the introduction of new vehicle construction standards, using the 3 month rule. However, the 2009 Regulations only permit continued registration for end of series vehicles which have a European Whole Vehicle Type Approval (EWVTA). EWVTA does not become mandatory, under the terms of the 2009 Regulations, for all categories of goods vehicle until 2014. Regulation 4 therefore ensures that end of series goods vehicles

which do not have EWVTA can also continue to be registered for a further 12-18 months.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

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

7.1 Regulation 4 provides end-of-series exemptions for vehicle manufacturers at the introduction of the Euro 5 emissions standard contained in Regulation (EC) No 715/2007. This flexibility allows manufacturers a further 12-18 months to register vehicles built to previous emissions standard which remain in stock on the 1st January 2012 when the Euro 5 emissions standard would otherwise take effect for new category N_1 class II and III and category N_2 vehicles of less than 2610kg reference mass presented for first registration.

7.2 In the absence of these exemptions manufacturers would have only two practical options for their unregistered vehicles. They could register all vehicles prior to the entry into force of the new standard. Alternatively they could approve each individual vehicle for registration through the Individual Vehicle Approval (IVA) scheme, which sets emissions requirements based on the date of manufacture, rather than date of registration, of the vehicle. Implementing an end-of-series exemption for these vehicles will enable manufacturers to liquidate their remaining stock, without incurring the loss of value inherent in registering vehicles before they are sold or the additional cost of submitting every vehicle in the remaining stock for IVA after the new emissions standard takes effect.

8. Consultation outcome

8.1 The Department for Transport conducted a targeted consultation of vehicle manufacturer and vehicle bodybuilding associations on the end-of-series exemption aspects of the regulations. Both industries were extremely supportive of the implementation of end-of-series exemptions and indicated that they did expect there to be significant numbers of unsold vehicles requiring end-of-series exemptions as of 1st January 2012 (see Impact Assessment for further details). One vehicle manufacturer expressed a preference for a percentage rule based exemption; all other manufacturers were content with the 3 month rule-based exemption. The terms of the Framework Directive allow Member States to implement either a percentage rule or 3 month rule-based exemption. They do not permit Member States to offer vehicle manufacturers a choice of either approach.

9. Guidance

9.1 None required.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has been prepared for this instrument and indicates that there are no economic, environmental or social costs.

11. Regulating small business

11.1 The instrument applies to small business. No additional financial impacts for small business are envisaged as a result of this instrument.

12. Monitoring & review

12.1 Regulation 5 inserts a 5 year statutory review clause into the 1986 Regulations in line with Government policy. This review covers all of the vehicle emissions requirements in Regulations 61-61B. The exemptions in Regulation 61C will have a finite (12-18 month) life, after which they cease to have effect. They will have ceased to have effect by the time of the 5 year review so are not included in the scope of the review.

12.2 The number of vehicles exempted under these provisions will be monitored by the Vehicle Certification Agency. All the exemptions will have expired by the end of June 2015.

13. Contact

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