EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 2) REGULATIONS 2024

2024 No. 1312

1. Introduction

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

2. Declaration

2.1 Lilian Greenwood MP, Parliamentary Under Secretary for Future of Roads at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

2.2 Phil Earl, Deputy Director for International Vehicle Standards at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Craig Holmes at the Department for Transport telephone: 07815 453330 or email: IVS.ENQUIRIES@dft.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the instrument

What does the legislation do?

4.1 The instrument will amend the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) ("the 1986 Regulations") to permit camera-monitor systems ("CMS") to be fitted to new and existing vehicles as an alternative to mandatory mirrors. It will also ensure that sideguards, or Lateral Protection Devices, (which are typically formed of two aluminium rails fitted along the side of heavy goods vehicles ("HGV") at waist height to deflect a cyclist or other vulnerable road user away from the vehicle) fitted to new HGVs where required at type approval remain fitted to these vehicles throughout their working life.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales, and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, and Scotland.

5. Policy Context

What is being done and why?

5.1 The 1986 Regulations specify the technical requirements for vehicles to be on the road and are being amended to recognise CMS as alternatives to mirrors and to ensure that sideguards fitted to vehicles at type approval[1] are retained and maintained.

5.2 Our domestic regulations permit vehicles approved with CMS to enter service. However, the 1986 Regulations do not currently recognise such systems as alternatives to mirrors. As it is now possible for manufacturers to register vehicles which are approved with CMS, it is reasonable to permit those same systems to be retrofitted to existing vehicles where they can also comply with the appropriate installation requirements and the provisions of this instrument facilitate this.

5.3 It is possible for an HGV to be fitted with sideguards at type approval but for the operator to choose to remove them or not maintain them (if their vehicle meets one of the exemptions in regulation 51 of the 1986 Regulations) once the vehicle is in use. It is counterproductive to lose the safety benefits that the vehicles were manufactured with. This also aligns with the commitment in the 2019 Road Safety Statement[2] to consult on removing current exemptions for sideguards and the Cycling and Walking Investment Strategy[3].

What was the previous policy, how is this different?

5.4 Type approval requires vehicles to be fitted with mirrors to provide drivers with an indirect view of the area around their vehicle. In 2016, amendments were made to type approval regulations to permit CMS as an alternative. The 1986 Regulations do not recognise CMS, which means it is not possible to fit them in replacement for mirrors. This instrument aims to align the 1986 Regulations with type approval requirements so that CMS can be fitted to all vehicles.

5.5 Since 2014, type approval regulations have specified requirements for sideguards. HGVs are generally required to have sideguards unless the manufacturer can demonstrate to the approval authority that the vehicle is eligible for one of the type approval exemptions. The 1986 Regulations currently provide in use exemptions that do not align with those in type approval. There is therefore a risk that sideguards may be removed from recently approved HGVs once the vehicle enters service, citing one of the sideguard exemptions listed in the 1986 Regulations, removing the safety benefit. This instrument aims to stop this occurring.

6. Legislative and Legal Context

How has the law changed?

6.1 Currently, regulations 3 and 33 of the 1986 Regulations only allow for conventional mirrors and not alternative devices for indirect vision such as CMS. Regulation 51

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[1] Type approval is the process whereby manufacturers of a new model of vehicle are required to test it against international and domestic safety and environmental standards and obtain approval from a government body prior to placing it on sale.

[2] https://assets.publishing.service.gov.uk/media/5d2de4f1ed915d2ff003b711/road-safety-statement-2019.pdf

[3] https://www.gov.uk/government/publications/the-second-cycling-and-walking-investment-strategy

details which vehicles must be fitted with sideguards; it includes a list of exemptions which do not align with type approval requirements.

6.2 This instrument amends regulations 3, 33 and 51, and Schedule 2 of the 1986 Regulations.

6.3 Regulation 3 is amended to add a definition for CMS, aligning to the definition set out in UNECE Regulation 46.04[4], and to exclude CMS from the existing definitions of overall length and overall width, in keeping with the existing exemption for mirrors.

6.4 Regulation 33 is amended to permit motor vehicles of categories M and N[5], and all other motor vehicles having less than four wheels fitted with bodywork which partly or wholly encloses the driver, to be fitted with a CMS as an alternative to the mandatory mirror requirements. It will also set standards for performance by requiring such systems to be approved to UNECE Regulation 46.04 and the installation of such systems to meet the technical requirements set out in UNECE Regulation 46.04.

6.5 Regulation 51 is amended to mandate that sideguards fitted to a vehicle for obtaining approval must be retained on the vehicle at all times when in use on Great Britain's roads and maintained in accordance with regulation 52.

6.6 Schedule 2, which lists the Community Directives and ECE Regulations that are considered in the 1986 Regulations, is amended to add UNECE Regulation 46.04.

Why was this approach taken to change the law?

6.7 Type approval regulations have been previously amended to allow for CMS and to mandate the fitment of sideguards to more HGVs. Great Britain cannot benefit fully from these changes without amending the 1986 Regulations to align. Amending these via a statutory instrument is the only possible solution to achieve this.

7. Consultation

Summary of consultation outcome and methodology

7.1 Both individuals and organisations were invited to offer suggestions on how government policy on vehicles and equipment could improve safety of cyclists and pedestrians as part of the Department for Transport's Cycling and Walking Investment Strategy Safety Review Call for Evidence which ran from 9 March 2018 to 1 June 2018 on gov.uk[6]. This resulted in the commitment in the Road Safety Statement to consult on removing current exemptions for sideguards.

7.2 As per the requirement in section 195(2) of the Road Traffic Act 1988, c. 52, representative organisations were contacted with a targeted consultation being held on the proposals for CMS and sideguards. 27 stakeholders in the HGV and public transport vehicle industries, road safety campaigners and cycling charities were contacted. They were provided with the policy background and the suggested amendments. They were given the opportunity to agree or disagree with the suggested amendments and asked whether they could provide any information on potential cost

[4] A copy of UNECE Regulation 46.04 is available at https://unece.org/DAM/trans/doc/2015/wp29/ECE-TRANS-WP29-2015-084e.pdf. A hard copy may be obtained from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR.

[5] https://unece.org/transport/vehicle-regulations/wp29/resolutions

[6] https://www.gov.uk/government/calls-for-evidence/cycling-and-walking-investment-strategy-cwis-safety-review

and benefits as well as a chance to offer any other comments. The consultation ran from 23 April 2024 to 21 May 2024.

7.3 Devolved administrations were also given the opportunity to respond to the consultation.

7.4 Three responses in total were received. One response agreed with all the proposals. Two responses agreed with all but one of the proposals; they disagreed with the proposal that retrofitted CMS should be fitted in compliance with the installation requirements of UNECE Regulation 46.04, but not require approval of the installation.

7.5 The government does not intend to introduce mandatory approval for the installation of CMS, nor introduce an independent installation check or certification procedure for approved installers. The policy intent is to require a retrofitted CMS to be approved to UNECE Regulation 46.04 and for its installation to comply fully with the technical requirements set out in UNECE Regulation 46.04. The only requirements which will not apply are those associated with the approval process of the installation, as approval requirements are met at the manufacturing stage and are not applied once a vehicle is registered. This aligns with the approach taken for several other components or systems which are allowed to be retrofitted in accordance with the 1986 Regulations e.g. seatbelt anchorages.

7.6 A supplier or individual who fitted a CMS which was not approved or was not installed in line with the appropriate technical requirements would be committing an offence under section 76 of the Road Traffic Act 1988.

7.7 Although the annual roadworthiness test would not check that the CMS met the detailed technical requirements of UNECE Regulation 46.04, it would confirm that it is fitted, working and gave an adequate view to the rear. This will not apply to vehicles which are exempt from annual roadworthiness testing.

8. Applicable Guidance

8.1 The transport and road haulage industries are familiar with the new mandatory provisions regarding sideguards and the new permissive provisions regarding CMS. No additional guidance is therefore considered necessary.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it was assessed that the impacts were below the De Minimis Assessment (DMA) threshold (Equivalent Annual Net Direct Cost to Business <£5 million).

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because existing legislation for type approval of new HGVs from 2014 already require sideguards to be fitted and this amendment simply mandates the retaining of these sideguards. The CMS provisions impose no mandatory requirements and therefore no burden.

9.3 The legislation does not impact on small or micro businesses because existing legislation for type approval of new HGVs from 2014 already requires sideguards to

be fitted and this amendment simply mandates the retaining of these sideguards. The CMS provisions impose no mandatory requirements and therefore no burden.

9.4 There is no, or no significant, impact on the public sector because the provision relates to vehicle operators.

10. Monitoring & review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is for the Department to monitor the general working of the regulations as part of its general responsibilities for vehicle safety standards.

10.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 c. 26 Lilian Greenwood MP has made the following statement:

"These regulations are not considered to have a significant regulatory impact and in these circumstances, a statutory review clause is considered inappropriate".

Part Three: Statements and Matter of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Lilian Greenwood MP, Parliamentary Under Secretary for Future of Roads at the Department for Transport, has made the following statement regarding Human Rights:

"In my view the provisions of the Road Vehicles (Construction and Use) (Amendment) (No. 2) Regulations 2024 are compatible with the Convention rights".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, c. 16, the European Union (Future Relationship) Act 2020, c. 29 or the Retained EU Law (Revocation and Reform) Act 2023, c. 28 ("relevant European Union Acts").