EXPLANATORY MEMORANDUM TO
THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (No. 2) REGULATIONS 2007

2007 No. 2544

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 amend Schedule 7XA to the Road Vehicles (Construction and Use) Regulations 1986 ("the 1986 Regulations") to allow certain vehicles to be "end of series" vehicles and thus permitted to be used after 1st October 2007.

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

None

4. Legislative Background

4.1 Directive 2005/55/EC, as amended by directives 2005/78/EC and 2006/51/EC provide the main emissions requirements for heavy duty vehicles. These Directives are all part of the EC Framework on vehicle type approval, established by Directive 70/156/EEC.

4.2 Section 41 of the Road Traffic Act 1988 gives the Secretary of State the power to make Regulations on the construction and use of vehicles, of which the 1986 Regulations are an example. Sections 54 to 66, under which the Motor Vehicle (Type Approval of Goods Vehicles) Regulations 1982 ("the 1982 Regulations") are regarded as having been made, give him the power to establish a scheme for vehicle type approval.

4.3. Regulation 61A of the 1986 Regulations prescribes emissions standards for road vehicles first used on or after 1 January 2001. Vehicles are required to comply with design, construction, and equipment requirements and limit values related to their emissions of certain pollutants as specified in European Directives included in the Table in the regulation and from dates specified for such vehicles in those directives. The directives are broadly of two types: those applicable to light vehicles such as cars and light vans (directive 70/220/EEC and its amendments) and those applicable to heavy diesel engined vehicle such as lorries and buses (directive 2005/55/EC and its amendments).

4.4. Regulation 61A of and Schedule 7XA to the 1986 Regulations exemptcertain vehicles ("end of series vehicles") entering into service from compliance with emissions standards prescribed in regulation 61A, to allow a manufacturer's end of series production vehicles to continue to enter service for up to 12 months after the date prescribed in the Directive concerned. This is permitted under the current EC vehicle type approval Framework Directive (70/156/EEC as amended).

4.5. In essence a vehicle is an end-of-series vehicle under the 1986 Regulations if it is an end of series vehicle for type approval purposes under relevant type approval regulations (in this case the 1982 Regulations). Directives 2005/78/EC and 2006/51/EC introduce certain requirements for new heavy duty vehicles from 1st October 2007. These have been transposed in the 1986 Regulations, but have not yet been transposed in the 1982 type approval regulations. As a result no end of series derogations from the requirements of these directives currently apply for heavy duty vehicles which are subject to type approval.

The Regulations which are the subject of this memorandum provide that heavy duty vehicles are also end of series vehicles for the purposes of the 1986 Regulations if the emissions requirements they must meet for type approval purposes are the same before and after 1st October 2007.

5. Extent

This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

7.1 Directive 2005/55/EC as amended by Directives 2005/78/EC and 2006/51/EC, complement existing emissions requirements for heavy duty vehicles by prescribing standards to ensure that a vehicle's emissions performance does not deteriorate while in service. The Directives are mandated in regulation 61A of the 1986 Regulations. Their provisions have effect generally from 9 November 2006 but certain requirements of the latter two directives, in particular those relating to measures concerning emissions malfunctions while in service, have effect from 1 October 2007.

7.2. The Department has for some years provided in domestic regulations for a specified number of "end of series" vehicles to be exempted from the requirements of new EU emissions directives. This ensures a smooth transition for vehicle manufacturers to a new emissions standard by allowing old standard vehicles which remain in stock on the implementation of new requirements to continue to be registered (in limited numbers). The amending regulations make changes to the end-of-series provisions contained in Schedule 7XA to the 1986 Regulations, to ensure that heavy duty vehicles may qualify for exemption, as end of series vehicles, from those directive provisions which have effect from 1 October 2007. Any such vehicles must nevertheless, by virtue of the 1986 Regulations, comply with the emissions requirements in force immediately before the new requirements from which the vehicle is exempt came into effect; they must also be registered for road use within 12 months of 1 October 2007.

7.3. The proposed change to the end of series requirements is of a minor nature and imposes no new burdens on industry. It is necessary however to ensure that any heavy duty vehicle manufacturers who have planned their production on the understanding that the end of series provisions, as currently included in the 1986 and 1982 Regulations, would apply as on previous occasions, should not be disadvantaged as a result of the end of series provisions not being available, essentially because of a technicality.

7.4. The necessity for this amendment has arisen as a result of uncertainty concerning the timing of certain revisions to the 1982 Regulations. End of series exemptions would have had effect as a result of those revisions. These will now be too late however to meet the needs of some manufacturers, hence the need for the currently proposed amendment to the 1986 Regulations.

8. Impact

8.1. In the UK the amendment will potentially impact on 3 manufacturers of heavy-duty vehicles (over 3.5 tonnes). In its absence, a number of vehicles may have to be pre-registered before 1 October 2007, thereby making them "second- hand" vehicles and significantly reducing their value. On the other hand no cost to industry will result from the amending Regulations. The fact that the vehicles of any manufacturers which will benefit already exist and would otherwise have been pre-registered means there is no environmental impact.

8.2. An RIA has not been prepared because manufacturers are likely to have already planned their production on the basis that the existing generic end of series provisions - applicable to all new emissions directives - would have applied. Any cost savings would have already been factored in therefore. As indicated above, there is no environmental impact.

8.3. The Department consulted the Society of Motor Manufacturers and Traders whose members may have an interest in the proposed amendment. Only one of their members commented, raising a query on the terms of the allowance - which are unchanged.

8.4. There is no impact on the public sector.

9. Contact

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