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STATUTORY INSTRUMENTS

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**2003 No. 2635**

**The End-of-Life Vehicles Regulations 2003**

**PART III**

*Design Requirements*

**Prohibition on heavy metals**

6. A producer shall ensure that materials and components of vehicles put on the market do not contain lead, mercury, cadmium or hexavalent chromium except in the cases listed in Schedule 1 to these Regulations.

**Requirement for technical documentation**

7. A producer shall at the request of the enforcement authority submit technical documents or other information showing that the materials and components of vehicles put on the market comply with the requirements of regulation 6 and Schedule 1.

8. A producer shall ensure that he keeps the information necessary for him to submit to the enforcement authority the documents referred to in regulation 7 for a period of four years from the date that he puts the materials and components on the market.

**Compliance Notice**

9.—(1) Where the enforcement authority has reasonable grounds for suspecting that any or all of the requirements of the following regulations have not been complied with—

- (a) regulation 6;
- (b) regulation 7; and
- (c) regulation 8

it may serve a compliance notice on the producer.

(2) A compliance notice which is served under paragraph (1) shall—

- (a) state that the enforcement authority suspects a requirement of this Part of the Regulations has been contravened;
- (b) specify the reason it is suspected that a requirement of this Part of the Regulations has been contravened and give particulars thereof;
- (c) require the producer to whom notice is given—
  - (i) to comply with the requirements of the Regulations where it is suspected that he is in breach; or
  - (ii) to provide evidence to the satisfaction of the enforcement authority that the requirements of the Regulations have been met;
- (d) specify the period of time within which the producer must comply with the notice issued by the enforcement authority; and

- (e) warn the producer that unless the requirement is complied with, or satisfactory evidence has been provided within the period specified in the notice, he may be prosecuted under regulation 10.

### **Offences**

**10.** Any person who contravenes a requirement of regulation—

- (a) 6;
- (b) 7; or
- (c) 8

shall be guilty of an offence.

### **Penalties**

**11.—**(1) A person guilty of an offence under regulation 10 (a) shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment to a fine.

(2) A person guilty of an offence under regulation 10 (b) or (c) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Defence of due diligence**

**12.—**(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 10 it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

### **Liability of persons other than the principal offender**

**13.—**(1) Where the commission by any person of an offence under regulation 10 is due to the act or default committed by some other person in the course of any business of his, the other person

shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under Part III of these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner and any reference to a person purporting to act in such capacity shall be construed accordingly.