

**2005 No. 249**

**ROAD TRAFFIC AND VEHICLES**

**The Motor Vehicles (Construction and Use) (Amendment  
No. 2) Regulations (Northern Ireland) 2005**

*Made* - - - - - *9th May 2005*

*Coming into operation* *20th June 2005*

The Department of the Environment, in exercise of the powers conferred on it by Articles 55 and 110(2) of the Road Traffic (Northern Ireland) Order 1995(a) and of every other power enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 20th June 2005.

(2) In these Regulations “the principal Regulations” means the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(b).

**Amendment to regulation 3 (application and exemptions)**

2. In column 3 of item 2 in the Table in regulation 3(4) of the principal Regulations(c), after the words “regulations 6, 7, 9, 10, 49 and 62” there shall be inserted –

“ ; and

(a) additionally, in respect of any passenger vehicle with a maximum gross weight exceeding 10 tonnes registered in one or more Member States, regulations 42(1), 42(7)(c) and 42(10);

(b) additionally, in respect of any goods vehicle with a maximum gross weight exceeding 12 tonnes registered in one or more Member States, regulations 43(1), 43(6)(c) and 43(8)”.

**Amendment to regulation 42 (speed limiters fitted to buses and coaches)**

3. For regulation 42 of the principal Regulations there shall be substituted the regulation set out in Schedule 1.

**Amendment to regulation 43 (speed limiters fitted to goods vehicles)**

4. For regulation 43 of the principal Regulations(d) there shall be substituted the regulation set out in Schedule 2.

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(a) S.I. 1995/2994 (N.I. 18); see Article 2(2) for the definition of “the Department”

(b) S.R. 1999 No. 454; relevant amending Regulations are S.R. 2002 No. 375 and S.R. 2004 No. 67

(c) Regulation 3 was amended by S.R. 2004 No. 67, regulation 3

(d) Regulation 43 was amended by S.R. 2002 No. 375, regulation 6

**Amendment to regulation 83 (plates – vehicles fitted with speed limiters)**

5.—(1) Regulation 83 of the principal Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) for the words “regulation 41 or 42” there shall be substituted “regulation 42 or 43”.

(3) In paragraph (3) the words “Subject to regulation 43(8),” shall be omitted.

**Amendment to Schedule 3 (authorised sealers)**

6.—(1) Part II of Schedule 3 to the principal Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph 1(1) for “paragraphs (2)(c), and (3) or (4)”, there shall be substituted “paragraphs (7)(b) and (7)(c) or (8) in addition to those of paragraph (9) or (10)”.

(3) In paragraph 1(2) for “paragraphs (2)(c), and (4) or (5)”, there shall be substituted “paragraphs (6)(b) and (c) in addition to those of paragraph (7) or (8).”

(4) After paragraph 2 there shall be inserted –

“3. When sealing a speed limiter fitted to a vehicle to which regulation 42 applies, an authorised sealer shall do so in such a manner that the speed limiter fulfils the requirements of paragraph (7)(a) of that regulation.

4. When sealing a speed limiter fitted to a vehicle to which regulation 43 applies, an authorised sealer shall do so in such a manner that the speed limiter fulfils the requirements of paragraph (6)(a) of that regulation.”.

Sealed with the Official Seal of the Department of the Environment on 9th May 2005.

(L.S.)

*Wesley Shannon*

A senior officer of the Department of the Environment

## REGULATION TO BE SUBSTITUTED FOR REGULATION 42

*“Speed limiters fitted to buses and coaches*

- 42.—(1) Subject to paragraph (11) this regulation applies to every bus and coach which –
- (a) has a maximum gross weight exceeding 10 tonnes;
  - (b) has, or if a speed limiter were not fitted to it would have, a maximum speed exceeding 100 km/h; and
  - (c) was first used on or after 1st January 1988,

and a reference in this regulation to a paragraph 1 vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.

(2) Subject to paragraph (11) this regulation also applies to every bus and coach, not being a bus or coach to which paragraph (1) applies, which –

- (a) is first used on or after 20th June 2005;
- (b) has a maximum gross weight exceeding 5 tonnes but not exceeding 10 tonnes; and
- (c) has, or if a speed limiter were not fitted to it would have, a maximum speed exceeding 100 km/h,

and a reference in this regulation to a paragraph (2) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.

(3) Subject to paragraphs (6) and (11) this regulation also applies to every bus which –

- (a) is first used on or after 20th June 2005;
- (b) has a maximum gross weight not exceeding 5 tonnes; and
- (c) has, or if a speed limiter were not fitted to it would have, a maximum speed exceeding 100 km/h,

and a reference in this regulation to a paragraph (3) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.

(4) Subject to paragraphs (5) and (11) this regulation also applies to every bus and coach, not being a bus or coach to which paragraph (1) applies, which –

- (a) was first used on or after 1st October 2001 and before 20th June 2005;
- (b) complies with the limit values set out in Council Directive 88/77/EEC(a) as amended by amendments up to and including those effected by Commission Directive 2001/27/EC(b);
- (c) has a maximum gross weight not exceeding 10 tonnes; and
- (d) has, or if a speed limiter were not fitted to it would have, a maximum speed exceeding 100 km/h,

and a reference in this regulation to a paragraph (4) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.

(5) This regulation shall apply –

- (a) on or after 20th June 2006 in the case of a paragraph (4) vehicle used for both national and international transport operations; and
- (b) on or after 20th June 2007 for a paragraph (4) vehicle used solely for national transport operations.

(6) This regulation shall apply on or after 20th June 2008 in the case of a paragraph (3) vehicle used solely for national transport operations.

(7) Subject to paragraphs (8) and (12) every vehicle to which this regulation applies shall be fitted with a speed limiter which must –

- (a) be sealed by an authorised sealer in such a manner as to protect the limiter against any improper interference or adjustment and against any interruption of its power supply;
- (b) be maintained in good and efficient working order; and
- (c) be set so that the speed of the vehicle cannot exceed 100 km/h.

(8) A speed limiter fitted to a paragraph (1) vehicle which is first used before 20th June 2005 may be set at a maximum speed of 100km/h.

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(a) O.J. No. L36, 9.2.1988, p. 33

(b) O.J. No. L107, 18.4.2001, p. 10

(9) Subject to paragraph (13) a speed limiter fitted before 1st October 1994 to a vehicle to which this regulation applies must comply with –

- (a) Part 1 of the British Standard; or
- (b) the Annexes to Community Directive 92/24, as amended by Directive 2004/11/EC of the European Parliament and of the Council<sup>(a)</sup>.

(10) A speed limiter fitted on or after 1st October 1994 to a vehicle to which this regulation applies must comply with the Annexes to Community Directive 92/24 as amended by Directive 2004/11/EC of the European Parliament and of the Council.

(11) This regulation does not apply to a vehicle –

- (a) being taken to a place where a speed limiter is to be installed, calibrated, repaired or replaced;
- (b) completing a journey in the course of which the speed limiter has accidentally ceased to function;
- (c) which is owned by the Secretary of State for Defence and used for naval, military or air force purposes;
- (d) which is used for naval, military or air force purposes while being driven by a person for the time being subject to the orders of a member of the armed forces of the Crown;
- (e) while it is being used for fire brigade, ambulance or police purposes; or
- (f) if and so long as it is exempt from vehicle excise duty by section 5 of and Schedule 2 to the 1994 Act.

(12) Paragraph (7) shall have effect in relation to –

- (a) a speed limiter fitted before 1st January 1995 to a vehicle first used before that date; or
- (b) a speed limiter sealed outside the United Kingdom,

as if the words “by an authorised sealer” were omitted.

(13) Paragraph (9) does not apply to a speed limiter fitted to a vehicle if the speed limiter complies with an equivalent standard.

(14) In this regulation –

“authorised sealer” means a person authorised by the Department in accordance with Schedule 3 of these Regulations, or by the Secretary of State for Transport in accordance with Schedule 3B of the Road Vehicles (Construction and Use) Regulations 1986<sup>(b)</sup>.

“equivalent standard” means –

- (i) a standard or code of practice of a national standards body or equivalent body of any EEA State, or
- (ii) any international standard recognised for use as a standard by any EEA State, or
- (iii) a technical specification or code of practice which, whether mandatory or not, is recognised for use as a standard by a public authority of any EEA State,

where the standard, code of practice, international standard or technical specification provides, in relation to speed limiters, a level of speed control equivalent to that provided by Part 1 of the British Standard;

“international transport operations” means transport operations outside the United Kingdom;

“national transport operations” means transport operations within the United Kingdom;

“Part 1 of the British Standard” means the British Standard for Maximum Road Speed Limiters for Motor Vehicles which was published by the British Standards Institution under the number BS/AU 217: Part 1: 1987 and which came into effect on 28th May 1987; as amended by Amendment Slip No. 1 under the number AMD 5969 which was published and came into effect on 30th June 1988;

“speed limiter” means a device whose primary function is to control the fuel feed to the engine in order to limit the vehicle speed to the specified value; and

“transport operations” means the transportation of passengers in vehicles designed for such a purpose and to which this regulation applies.”

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(a) O.J. No. L44, 14.2.2004, p. 19

(b) S.I. 1986/1078, relevant amending instruments are S.I. 1992/422 and S.I. 2003/1946

## REGULATION TO BE SUBSTITUTED FOR REGULATION 43

*“Speed limiters fitted to goods vehicles*

- 43.—(1) Subject to paragraph (9) this regulation applies to every goods vehicle which –
- (a) has a maximum gross weight exceeding 12,000 kg;
  - (b) is first used on or after 1st January 1988; and
  - (c) has, or if a speed limiter were not fitted would have, a relevant speed exceeding 90 km/h,
- and a reference in this regulation to a paragraph (1) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.
- (2) Subject to paragraphs (5) and (9) this regulation also applies to every goods vehicle which –
- (a) has a maximum gross weight exceeding 3,500 kg but not exceeding 12,000 kg;
  - (b) is first used on or after 20th June 2005; and
  - (c) has, or if a speed limiter were not fitted to it would have, a relevant speed exceeding 90 km/h,
- and a reference in this regulation to a paragraph (2) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.
- (3) Subject to paragraphs (4) and (9) this regulation also applies to every goods vehicle which –
- (a) has a maximum gross weight exceeding 3,500 kg but not exceeding 12,000 kg; and
  - (b) was first used on or after 1st October 2001 and before 20th June 2005;
  - (c) complies with the limit values set out in Directive 88/77/EEC as amended by amendments up to and including those effected by Commission Directive 2001/27/EC;
  - (d) has, or if a speed limiter were not fitted to it would have, a relevant speed exceeding 90 km/h,
- and a reference in this regulation to a paragraph (3) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.
- (4) This regulation shall apply –
- (a) on or after 20th June 2006 in the case of a paragraph (3) vehicle used for both national and international transport operations; and
  - (b) on or after 20th June 2007 in the case of a paragraph (3) vehicle used solely for national transport operations.
- (5) This regulation shall apply on or after 20th June 2008 in the case of a paragraph (2) vehicle with a maximum gross weight not exceeding 7,500 kg and used solely for national transport operations.
- (6) Every vehicle to which this regulation applies shall be fitted with a speed limiter which must –
- (a) be sealed by an authorised sealer in such a manner as to protect the limiter against any improper interference or adjustment and against any interruption of its power supply;
  - (b) be maintained in good and efficient working order; and
  - (c) be set so that the stabilised speed of the vehicle must not exceed 90 km/h.
- (7) Subject to paragraph (11) a speed limiter fitted before 1st October 1994 to a vehicle to which this regulation applies must comply with –
- (a) Part 1 of the British Standard; or
  - (b) the Annexes to Community Directive 92/24 as amended by Directive 2004/11/EC of the European Parliament and of the Council.
- (8) A speed limiter fitted on or after 1st October 1994 to a vehicle to which this regulation applies must comply with the Annexes to Community Directive 92/24 as amended by Directive 2004/11/EC of the European Parliament and of the Council.
- (9) This regulation does not apply to a vehicle –
- (a) being taken to a place where a speed limiter is to be installed, calibrated, repaired or replaced;
  - (b) completing a journey in the course of which the speed limiter has accidentally ceased to function;
  - (c) is owned by the Secretary of State for Defence and used for naval, military or air force purposes;
  - (d) is used for naval, military or air force purposes while being driven by a person for the time being subject to the orders of a member of the armed forces of the Crown;

- (e) while it is being used for fire brigade, ambulance or police purposes; or
- (f) if and so long as it is exempt from vehicle excise duty by section 5 of and Schedule 2 to the 1994 Act.

(10) Paragraph (6)(a) shall have effect in relation to –

- (a) a speed limiter fitted before 1st January 1995 to a vehicle first used before that date; or
- (b) a speed limiter sealed outside the United Kingdom,

as if the words “by an authorised sealer” were omitted.

(11) Paragraph (7) does not apply to a speed limiter fitted to a vehicle if the speed limiter complies with an equivalent standard.

(12) In this regulation –

“authorised sealer”, “Part 1 of the British Standard”, “equivalent standard” and “speed limiter” have the same meanings as in regulation 42;

“international transport operations” means transport operations outside the United Kingdom;

“national transport operations” means transport operations within the United Kingdom;

“relevant speed” means a speed which a vehicle is incapable, by means of its construction, of exceeding on the level under its own power when unladen;

“stabilised speed” means the mean speed of a vehicle when its speed is under the control of a speed limiter and stable speed control has been achieved; and

“transport operations” means the transportation of goods in vehicles designed for such a purpose and to which this regulation applies.”

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 (the “1999 Regulations”) in respect of the requirements for speed limiters on motor vehicles. (Regulation 42 of the 1999 Regulations defines a “speed limiter” as “a device whose primary function is to control the fuel feed to the engine in order to limit the vehicle speed to the specified value”).

The main purpose of the amendments is to implement Directive 2002/85/EC of the European Parliament and of the Council (O.J. No. L57, 4.12.2002, p. 327), which amends Council Directive 92/6/EC on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (O.J. No. L57, 2.3.1992, p. 27).

Regulation 2 amends regulation 3(4) of the 1999 Regulations for the purpose of excluding from the scope of the exemption in regulation 3(4) specified categories of motor vehicle brought temporarily into Northern Ireland by a person resident abroad. The amendments have the effect that the following categories of motor vehicle do not have the benefit of the exemption in regulation 3(4) in respect of requirements under –

- (i) regulations 42(1), 42(7)(c), 42(10), of the 1999 Regulations: any passenger vehicle with a maximum gross weight exceeding 10 tonnes registered in one or more Member States of the European Union; and
- (ii) regulations 43(1), 43(6)(c) and 43(8) of the 1999 Regulations: any goods vehicle with a maximum gross weight exceeding 12 tonnes registered in one or more Member States of the European Union.

Removal of the above exemption will allow enforcing authorities in Northern Ireland to enforce Articles 2 and 3 of Council Directive 92/6/EEC which require certain categories of motor vehicle to be fitted with speed limiters. Article 1 of European Parliament and Council Directive 2002/85/EC replaced, inter alia, Articles 1 to 5 of Directive 92/6/EEC. In particular, the amendments made by regulation 2 will enable enforcing authorities to enforce the fitment requirement in respect of motor vehicles visiting Northern Ireland from elsewhere in the European Union. Additionally, they will enable enforcing authorities to apply effective penalties in cases of non-compliance, as required by Article 10 of European Parliament and Council Directive 2000/30/EC. Commission Directive 2003/26/EC adapted to technical progress, European Parliament and Council Directive 2000/30/EC. Enforcement in respect of motor vehicles registered in Northern Ireland is already provided for under regulations 42 and 43 of the 1999 Regulations. The amendments in regulation 2 will provide for equivalent treatment in the case of motor vehicles registered in Member States of the European Union other than Northern Ireland.

Regulation 3 and Schedule 1 substitute regulation 42 of the 1999 Regulations in its entirety in order to insert new requirements and to amend the current requirements in relation to speed limitation devices on buses and coaches. Spent provisions relating to vehicles used before a certain date have been removed. In regulation 42 (as substituted) –

- (i) new paragraphs (2) and (3) extend the requirement to fit speed limiters to all passenger carrying vehicles with eight or more passenger seats, irrespective of weight, when first used on or after 20th June 2005. New paragraph (6) has the effect of deferring this requirement until 20th June 2008 for passenger carrying vehicles, with a maximum gross weight not exceeding 5 tonnes, when used solely for national transport operations;
- (ii) new paragraph (4) (which is subject to paragraphs (5) and (11)) has the effect of requiring speed limiters to be fitted to passenger carrying diesel engine vehicles with a maximum gross weight not exceeding 10 tonnes, which are first used between 1st October 2001 and 20th June 2005;
- (iii) new paragraph (5) has the effect of deferring the requirement to fit speed limiters to such vehicles until 20th June 2006 when used solely for national and international

transport operations, or 20th June 2007 when used solely for national transport operations;

- (iv) paragraphs (9)(b) and (10) require speed limiters fitted to vehicles to comply with the provisions in the annexes to Directive 92/24/EEC. The scope of these provisions has been amended by Directive 2004/11/EC so that the construction requirements extend to speed limiters fitted to vehicles that are the subject of these Regulations. Paragraphs (9)(b) and (10) have been amended to include reference to this amending Directive;
- (v) paragraph 11 is amended to extend the list of vehicles exempted from the requirements of regulation 42; and
- (vi) paragraph 14 is amended to include new definitions relating to transport operations.

Regulation 4 and Schedule 2 substitute regulation 43 of the 1999 Regulations in its entirety in order to insert new requirements and to amend the current requirements in relation to speed limitation devices on goods vehicles. Spent provisions relating to vehicles used before a certain date have been removed. In regulation 43 (as substituted) –

- (i) new paragraph (2) extends the requirement to fit speed limiters to all goods carrying vehicles with a maximum gross weight exceeding 3,500kg but not exceeding 12,000kg when first used on or after 20th June 2005. New paragraph (5) has the effect of deferring this requirement until 20th June 2008 for goods carrying vehicles, with a maximum gross weight not exceeding 7,500kg, when used solely for national transport operations;
- (ii) new paragraph (3) has the effect of requiring speed limiters to be fitted to goods carrying diesel engined vehicles with a maximum gross weight exceeding 3,500kg but not exceeding 12,000kg, which are first used between 1st October 2001 and 20th June 2005;
- (iii) new paragraph (4) has the effect of deferring the requirement to fit speed limiters to such vehicles until 20th June 2006 when used solely for national and international transport operations, or 20th June 2007 when used solely for national transport operations;
- (iv) paragraphs (7)(b) and (8) require speed limiters fitted to vehicles to comply with the provisions in the annexes to Directive 92/24/EEC. The scope of these provisions has been amended by Directive 2004/11/EC so that the construction requirements extend to speed limiters fitted to vehicles that are the subject of these Regulations. Paragraphs (7)(b) and (8) have been amended to include reference to this amending Directive; and
- (v) paragraph 12 is amended to include new definitions relating to transport operations.

Regulation 5 amends regulation 83 of the 1999 Regulations so as to make a drafting correction to paragraph (1) and to omit a reference in paragraph (3) to a spent provision in regulation 43.

Regulation 6 amends Part II of Schedule 3 to the 1999 regulations (the conditions which apply to authorised sealers) to reflect the requirements that must be met by an authorised sealer when sealing a speed limiter. It also makes minor drafting corrections to paragraph 1.

Copies of relevant EC Directives can be obtained from TSO, 16 Arthur Street, Belfast BT1 4GD.

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