

2009 No. 336

ROAD TRAFFIC AND VEHICLES

**The Motor Vehicles (Construction and Use) (Amendment)
Regulations (Northern Ireland) 2009**

Made - - - - - *2nd October 2009*

Coming into operation - *2nd November 2009*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Articles 55(1), (2) and (6) and 110(2) of the Road Traffic (Northern Ireland) Order 1995(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 2nd November 2009.

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

Amendment to regulation 38

2.—(1) Regulation 38 of the principal Regulations(c) (mirrors and other devices for indirect vision) is amended as follows.

(2) In paragraph (1), for “paragraphs (5) and (6)”, substitute “paragraphs (5) to (6H)”.

(3) After paragraph (6) insert—

“(6A) The requirements set out in paragraph (1) and the Table are modified as set out in paragraphs (6C) and (6D) in so far as those requirements relate to a relevant vehicle and to the fitting of class IV and class V mirrors on the passenger’s side of that vehicle.

(6B) The alternative requirements set out in paragraph (5) do not apply in so far as those requirements relate to a relevant vehicle and to the fitting of class IV and class V mirrors on the passenger’s side of the vehicle.

(6C) Subject to paragraph (6F), a relevant vehicle which would otherwise be required to meet the requirements set out in item 3 of the Table shall instead meet the requirements set out in item 4 which are applicable to a vehicle of the same maximum gross weight.

(6D) Subject to paragraph (6F), a relevant vehicle which would otherwise be required to meet the requirements set out in item 5 of the Table shall instead meet the requirements set out in item 6.

(a) S.I. 1995 No. 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. 2007 No. 15, S.R. 2007 No. 481, S.R. 2004 No. 67, S.R. 2007 No. 15 and S.R. 2007 No. 481

(c) Regulation 38 was amended by S.R. 2007 No. 15 regulation 3 and S.R. 2007 No. 481 regulation 4

(6E) For the purposes of paragraphs (6C) and (6D)—

- (a) the words “and other devices for indirect vision” are omitted from item 4; and
- (b) the words “or other devices for indirect vision” are omitted from items 4 and 6.

(6F) A relevant vehicle does not have to comply with paragraph (6C) or (6D) (whichever is applicable to the vehicle) in the circumstances set out in paragraph (6G) or (6H).

(6G) The first set of circumstances is where the vehicle is equipped in the manner described in article 3(2) of Community Directive 2007/38.

(6H) The second set of circumstances is where the vehicle cannot, for want of available, economically viable, technical solutions—

- (a) comply with paragraph (6C) or (6D) (whichever is applicable to the vehicle); or
- (b) be equipped in the manner described in article 3(2) of Community Directive 2007/38,

but is equipped in the manner described in article 3(3) of Community Directive 2007/38.”.

(4) After paragraph (7)(d) insert—

“(e) “class IV” and “class V”, in relation to mirrors, have the meanings given in point 1.1.1.14 of Annex I to Community Directive 2003/97(a); and

(f) “a relevant vehicle” means a vehicle which—

- (i) would be a goods vehicle of a class referred to in column 2 of item 4 or 6 of the Table if “1st January 2000” were substituted for “26th January 2007”; and
- (ii) is not outside the scope of Community Directive 2007/38 by virtue of article 2(2)(b) or (c) of that Directive.”.

(5) After paragraph (8) insert—

“(9) Where a provision is applied by paragraph (6C) or (6D) to a vehicle which was first used on or after 1st January 2000, that provision applies to the vehicle whatever the date of manufacture of the vehicle, and regulation 4(2) is disapplied accordingly.”.

Amendment to Schedule 1

3. In Table 1 in Schedule 1 to the principal Regulations(b), after item 103 add—

<i>1.</i>	<i>2.</i>	<i>3.</i>		
<i>Item</i>	<i>Reference No.</i>	<i>Community Directives</i>		
		<i>(a)</i> <i>Date</i>	<i>(b)</i> <i>Official Journal Reference</i>	<i>(c)</i> <i>Subject matter</i>
104	2007/38	11.07.07	L184, 14.7.2007, p25	Retrofitting of mirrors to certain heavy goods vehicles.”.

(a) These meanings are the same as in Community Directive 2005/27 and ECE Regulation 46.02.

(b) Table 1 in Schedule 1 was amended by S.R. 2004 No. 67 regulation 10, S.R. 2007 No. 15 regulation 4 and S.R. 2007 No. 481 regulation 6

Sealed with the Official Seal of the Department of the Environment on 2nd October 2009.



Stanley Duncan
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations further amend the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 (“the 1999 Regulations”) in respect of the requirements to fit mirrors to certain goods vehicles first used on or after 1st January 2000.

These Regulations, in respect of the provisions imposing requirements as to the fitting of mirrors, implement Directive 2007/38/EC of the European Parliament and of the Council of 11 July 2007 on the retrofitting of mirrors to heavy goods vehicles registered in the Community (OJ No. L.184, 14.7.07, p.25).

Regulation 2 amends regulation 38 of the 1999 Regulations to provide that a relevant vehicle is required to comply with the provisions of item 4 or 6 (depending on the maximum gross weight of the vehicle) of the Table in regulation 38 (subject to the omission of certain words). These requirements, however, only apply in relation to the fitting of wide-angled (class IV) and close proximity (class V) mirrors on the passenger’s side of the vehicle. A relevant vehicle is a goods vehicle that, but for the amendment made by these Regulations, would not be required to comply with item 4 or 6, was first used on or after 1st January 2000 and is not excluded from the scope of Directive 2007/38/EC by article 2(2)(b) or (c) of that Directive. *Regulation 2* also provides that instead of complying with item 4 or 6, the provisions of article 3(2) or 3(3) of Directive 2007/38/EC may be complied with provided the conditions for doing so that are set out in those paragraphs of that article are met.

Regulation 3 amends Schedule 1 to add Directive 2007/38/EC to the list of Community Directives specified.

A transposition note setting out how these Regulations transpose the provisions of Directive 2007/38/EC is available from the Department of the Environment, Clarence Court, 10-18 Adelaide Street, Belfast, BT2 8GB and is annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website (www.opsi.gov.uk).

A Regulatory Impact Assessment has been prepared for these Regulations and is available from the Department of the Environment website at www.roadsafetyni.gov.uk

A copy of Directive 2007/38/EC may be obtained from the Stationery Office (www.tso.co.uk) or the EUROPA website (<http://eur-lex.europa.eu/en/index.htm>).

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