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STATUTORY INSTRUMENTS

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**1999 No. 2920**

**The Motor Cycles Etc. (EC Type Approval) Regulations 1999**

**PART II**

**EC TYPE APPROVAL GRANTED BY THE SECRETARY OF STATE**

**Applications for grant or amendment of EC type approval**

- 5.—(1) An application for EC type approval may be made to the Secretary of State.
- (2) An application under paragraph (1) shall be in writing and accompanied by the documents required by Article 3 of the Framework Directive.
- (3) An application by the holder of an EC type approval certificate issued by the Secretary of State for the approval to be amended may be made to the Secretary of State.
- (4) An application under paragraph (3) shall be in writing.

**Grant or refusal of applications**

- 6.—(1) The Secretary of State may refuse to grant EC vehicle type approval if he is not satisfied that the applicant has made adequate arrangements for complying with regulation 9.
- (2) The Secretary of State may refuse to grant EC component type approval if he is not satisfied that the applicant has made adequate arrangements for complying with regulations 9, 11 and 12.
- (3) The Secretary of State may grant EC component type approval of a separate technical unit or component subject to such restrictions on its use or conditions as to fitting it as are described in Article 7(3) of the Framework Directive.
- (4) Without prejudice to paragraphs (1) to (3) the Secretary of State shall make any decision under this regulation in accordance with—
- (a) the Framework Directive,
  - (b) any relevant separate Directives, and
  - (c) in particular, the requirement of the Framework Directive that a member State granting EC type approval must ensure that adequate arrangements have been made to ensure that production vehicles, components and separate technical units (as the case may be) conform to the EC approved type.
- (5) Where the Secretary of State decides to refuse an application made under regulation 5, he shall give notice of the refusal to the applicant.
- (6) Where the Secretary of State decides to impose restrictions on EC component type approval under paragraph (3), he shall, unless the applicant has consented to the restrictions or conditions, give notice of his decision to the applicant.

### **Issue of certificate**

7.—(1) Where the Secretary of State decides to grant or amend an EC type approval he shall issue an EC type approval certificate or (as the case may be) an amended EC type approval certificate.

(2) An EC type approval certificate shall be in the form required by the Framework Directive or the relevant separate Directive (as the case may be).

### **EC certificates of conformity and approval marks**

8.—(1) The holder of an EC vehicle type approval granted by the Secretary of State shall comply with the requirements of the first sentence of Article 7(1) of the Framework Directive (holders of EC vehicle type approval to issue certificates of conformity).

(2) The holder of an EC component type approval granted by the Secretary of State shall comply with Articles 7(2) and (4) and 8 of the Framework Directive (holders of EC component type approval to issue certificates of conformity and affix markings) so far as those provisions are applicable.

### **Conformity of production**

9. The holder of an EC type approval granted by the Secretary of State shall comply with paragraphs 1.1 to 1.1.6 of Annex VI to the Framework Directive (provisions relating to checking the conformity of production).

### **Duty to co-operate with the Secretary of State**

10.—(1) The holder of an EC type approval granted by the Secretary of State shall permit the Secretary of State to carry out his obligations in relation to the approval under—

- (a) Article 4(3) and (5) of the Framework Directive (duty to ensure that provisions relating to checking the conformity of production continue to be observed), or
- (b) any similar provision under a separate Directive.

(2) The holder of an EC type approval granted by the Secretary of State shall co-operate with any person acting on behalf of the Secretary of State in connection with the obligations mentioned in paragraph (1).

### **Information concerning restrictions on use of components and separate technical units**

11. Where the Secretary of State has granted EC component type approval subject to restrictions as permitted by regulation 6(3), the holder of the type approval shall comply with the requirements of Article 7(5) of the Framework Directive (duty to supply detailed information on restrictions and to give fitting instructions).

### **Information concerning separate technical units of non-original equipment**

12. Where the Secretary of State has granted EC component type approval for a separate technical unit of non-original equipment in connection with one or more types of vehicle, the holder of the type approval shall comply with the requirements of Article 7(6) of the Framework Directive (duty to supply information identifying those vehicles).

### **Withdrawal of EC type approval**

13.—(1) The Secretary of State may withdraw an EC vehicle type approval granted by him by giving notice to the holder if—

- (a) two or more vehicles associated with that type approval have been examined on behalf of the Secretary of State, and
  - (b) the Secretary of State is satisfied that there has been a failure to conform to the approved type in respect of each of those vehicles.
- (2) The Secretary of State may withdraw an EC component type approval granted by him by giving notice to the holder if–
- (a) two or more components or separate technical units associated with that type approval have been examined on behalf of the Secretary of State, and
  - (b) the Secretary of State is satisfied that there has been a failure to conform to the approved type in respect of each of those components or separate technical units.
- (3) Before withdrawing an EC type approval under this regulation, the Secretary of State shall give the holder notice in writing–
- (a) stating that he is considering withdrawing the approval, and
  - (b) giving particulars of the grounds on which he is considering withdrawing the approval.
- (4) Where the Secretary of State gives such a notice, the person to whom it is given may make representations to him with respect to the proposed withdrawal during a period of 28 days beginning with the day on which the notice is given.
- (5) The Secretary of State shall not decide to withdraw the approval until that period expires.
- (6) The Secretary of State shall take into account any representations made under paragraph (4) before deciding whether or not to withdraw the approval.
- (7) For the purposes of this regulation–
- (a) a vehicle is associated with an EC vehicle type approval if an EC certificate of conformity has been issued in respect of it and the certificate relates to that type approval,
  - (b) a component or separate technical unit is associated with an EC component type approval if–
    - (i) it has been marked with an approval mark and the marking relates to that type approval, or
    - (ii) an EC certificate of conformity has been issued in respect of it and the certificate relates to that type approval.

### **Suspension of EC type approval**

**14.**—(1) The Secretary of State may suspend an EC type approval granted by him by giving notice to the holder if, as a result of carrying out the obligations of the United Kingdom under Article 4(3) of the Framework Directive (competent authorities to ensure that certain provisions of the Directive relating to checking the conformity of production continue to be observed) in relation to that type approval, the Secretary of State is satisfied that–

- (a) the holder’s arrangements for ensuring that production vehicles, separate technical units or components (as the case may be) conform to the approved type are no longer adequate, or
  - (b) without prejudice to sub-paragraph (a), the holder has failed to comply with the requirements imposed by regulations 8 to 12, so far as those requirements are applicable.
- (2) Before suspending an EC type approval under this regulation, the Secretary of State shall give the holder notice in writing–
- (a) stating that he is considering suspending the approval, and
  - (b) giving particulars of the grounds on which he is considering suspending the approval.

(3) Where the Secretary of State gives such a notice, the person to whom it is given may make representations to him with respect to the proposed suspension during a period of 28 days beginning with the day on which the notice is given.

(4) The Secretary of State shall not decide to suspend the approval until that period expires.

(5) The Secretary of State shall take into account any representations made under paragraph (3) before deciding whether or not to suspend the approval.

(6) If the holder of an EC type approval which has been suspended under this regulation purports to issue an EC certificate of conformity by virtue of that approval, the certificate shall be invalid.

(7) The Secretary of State may by notice under paragraph (2) or subsequent notice given to the holder, exempt from paragraph (6) such EC certificates of conformity or classes of EC certificates of conformity as are specified in the notice.

(8) The suspension of an EC type approval shall not affect the validity of any EC certificate of conformity issued before the approval is suspended.

(9) A suspension under this regulation shall remain in force until it is revoked by the Secretary of State.

(10) If, following a request by the holder of an EC type approval which has been suspended under this regulation, the Secretary of State refuses to revoke the suspension of that type approval or to exercise his power under paragraph (7), he shall give notice of his decision to the holder.

#### **Powers of the Secretary of State in cases of serious risk to road safety**

**15.**—(1) Where the Secretary of State considers that vehicles, components or separate technical units of a particular type in respect of which an EC type approval has effect are a serious risk to road safety, he may direct that for a specified period not exceeding six months all EC certificates of conformity issued under that EC type approval (whether before or after the giving of the direction) shall be invalid for the purposes of—

- (a) Part II of the 1988 Act and any regulations made under that Part,
- (b) Part IV of the 1981 Order and Part III of the 1995 Order and any regulations made under those Parts, and
- (c) regulation 16.

(2) Notice of a direction under this regulation shall be given to the holder of the EC type approval.

(3) A direction under this regulation may be revoked by the Secretary of State.

(4) If, following a request by the holder of an EC type approval, the Secretary of State refuses to exercise his powers under paragraph (3) to revoke a direction given by him under this regulation, he shall give notice of his decision to the holder.