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STATUTORY INSTRUMENTS

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**1999 No. 2978**

**CONSUMER PROTECTION**

**The Road Vehicles (Brake Linings Safety) Regulations 1999**

<i>Made</i>	- - - -	<i>2nd November 1999</i>
<i>Laid before Parliament</i>		<i>3rd November 1999</i>
<i>Coming into force</i>		
<i>Regulations 1,2,3 and 7</i>		<i>24th November 1999</i>
<i>Remainder</i>		<i>31st March 2001</i>

Whereas the Secretary of State for the Environment, Transport and the Regions has, in accordance with section 11(5) of the Consumer Protection Act 1987<sup>(1)</sup>, consulted such organisations as appear to him to be representative of interests substantially affected by the following Regulations, the Health and Safety Commission in relation to the application of the following Regulations to Great Britain, and such other persons as he considers appropriate:

Now, the Secretary of State for the Environment, Transport and the Regions in exercise of the powers conferred by section 11 of the Consumer Protection Act 1987 and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation and commencement**

1.—(1) These Regulations may be cited as the Road Vehicles (Brake Linings Safety Regulations 1999.

(2) This regulation and regulations 2, 3 and 7 shall come into force on 24th November 1999 and the remaining provisions of these Regulations on 31st March 2001.

**Interpretation**

2.—(1) In these Regulations—

“the 1987 Act” means the Consumer Protection Act 1987;

“brake lining” means the friction material component of a brake lining assembly;

“brake lining assembly” means a component of a friction brake which is pressed against a drum or disc to produce the friction force;

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(1) 1987 c. 43.

“the Braking Devices Directive” means Council Directive [71/320/EEC](#)(2) as amended by Commission Directive [98/12/EC](#)(3);

“ECE Regulation 90” means Regulation 90 containing uniform provisions concerning the approval of replacement brake lining assemblies for power-driven vehicles and their trailers which came into force on 1st November 1992 as an Annex to the UNECE Agreement;

“ECE Regulation 90.01” means ECE Regulation 90 as amended by the 01 series of amendments on 18th September 1994;

“the Framework Directive” means Council Directive [70/156/EEC](#)(4) as amended by Council Directive [92/53/EEC](#)(5);

“relevant vehicle” means a vehicle which falls within vehicle category M<sub>1</sub> M<sub>2</sub> or N<sub>1</sub> of the categories specified in Annex II of the Framework Directive and has a maximum mass not exceeding 3.5 tonnes;

“the UNECE Agreement” means the Agreement of the United Nations Economic Commission for Europe concluded at Geneva on 20th March 1958 as amended(6) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions, to which the United Kingdom is a party by virtue of an instrument of accession dated 14th January 1963 deposited with the Secretary General of the United Nations on 15th January 1963; and

“vehicle” means a vehicle which is to be treated as a motor vehicle or trailer for the purposes of the Road Traffic Act 1988(7) or the Road Traffic (Northern Ireland) Order 1995(8).

(2) For the purposes of these Regulations the date on which a vehicle is first used shall be determined in accordance with regulation 3(3) of the Road Vehicles (Construction and Use) Regulations 1986(9) or regulation 2(4) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989(10).

### **Prohibition of the supply or fitting of brake linings containing asbestos**

3.—(1) Subject to paragraph (2), no person shall—

- (a) supply or offer or agree to supply for fitting to a vehicle;
- (b) expose or possess for supply for fitting to a vehicle; or
- (c) fit to a vehicle,

brake linings which contain asbestos.

(2) Nothing in paragraph (1) shall apply in relation to replacement brake linings—

- (a) for fitting to a vehicle which was first used before 1st January 1973 provided that the linings are clearly marked, or are contained in packaging clearly marked, “ILLEGAL TO FIT TO POST-1972 VEHICLES”; or
- (b) for fitting to any vehicle—
  - (i) owned by the Secretary of State for Defence and used for naval, military or air force purposes, or

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(2) OJ No. L202, 6.9.71. p. 37.

(3) OJ No. L81, 18.3.98, p. 1.

(4) OJ No. L42, 23.2.1970, p. 1.

(5) OJ No. L225, 10.8.92, p. 1.

(6) Cmnd 2535 and 3562.

(7) 1988 c. 52 (see sections 185 to 189).

(8) S.I. 1995/2994 (N.I. 18) (see Article 3).

(9) S.I. 1986/1078, to which there are amendments not relevant to these Regulations.

(10) S.R. 1989 No. 299.

(ii) owned by and used for the purposes of any visiting force.

(3) Paragraph 2(a) shall cease to have effect on 1st January 2005.

(4) In paragraph (2) “visiting force” means any body, contingent or detachment which is in accordance with section 12(1) of the Visiting Forces Act 1952<sup>(11)</sup> a visiting force for the purposes of any provision of Part I of that Act.

#### **Brake linings for relevant vehicles**

4.—(1) Subject to regulation 5, no person shall—

- (a) supply or offer or agree to supply for fitting to a relevant vehicle;
- (b) expose or possess for supply for fitting to a relevant vehicle; or
- (c) fit to a relevant vehicle,

brake linings which do not meet the requirements specified in paragraph (2)(a) or (b).

(2) The requirements are—

- (a) that the brake linings—
  - (i) have been type approved in accordance with the requirements of the Braking Devices Directive;
  - (ii) have been marked by the manufacturer in accordance with the requirements of paragraph 3 of Article 6 of the Framework Directive; and
  - (iii) are marked and packaged in accordance with the requirements of point 4 and point 6 of Annex XV of the Braking Devices Directive; or
- (b) that the brake linings—
  - (i) have been approved in accordance with paragraph 4 of ECE Regulation 90.01; and
  - (ii) are marked and packaged in accordance with paragraph 6 of that Regulation.

#### **Exception to regulation 4**

5. Nothing in regulation 4 shall be taken to apply in relation to replacement brake linings for fitting or fitted to a relevant vehicle which was first used before 1st September 1999, provided that the replacement brake linings are not such as to cause the vehicle to contravene the version of the Braking Devices Directive that was applicable to it when it was first used.

#### **Brake linings for other vehicles**

6. Without prejudice to regulation 3, no person shall—

- (a) supply or offer or agree to supply for fitting to a vehicle which is not a relevant vehicle;
- (b) expose or possess for supply for fitting to a vehicle which is not a relevant vehicle; or
- (c) fit to a vehicle which is not a relevant vehicle,

brake linings which are such as to cause the vehicle to contravene the version of the Braking Devices Directive that was applicable to it when it was first used.

#### **Commencement of proceedings**

7. In England, Wales and Northern Ireland a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence

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(11) 1952 c. 67.

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committed under section 12 of the 1987 Act in relation to a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within 12 months from the time when the offence is committed and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from when the offence is committed.

Signed by authority of the Secretary of State

*Larry Whitty*  
Parliamentary Under Secretary of State,  
Department of the Environment, Transport and  
the Regions

2nd November 1999

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## EXPLANATORY NOTE

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

These Regulations restrict the supply of brake linings on safety grounds and give effect to Commission Directive [98/12/EC](#) of 27th January 1998 adapting to technical progress Council Directive [71/320/EEC](#) on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers (“the Braking Devices Directive”). The Directive lays down standards for asbestos-free brake linings. These Regulations are made under section 11(5) of the Consumer Protection Act 1987 and adopt the definition of “vehicle” used in the Road Traffic Act 1988 and in the Road Traffic (Northern Ireland) Order 1995 (S.I. [1995/2994](#)) (N.I.18). The definition includes motor cycles.

Regulation 3, which comes into force on 24th November 1999, prohibits the supply, exposure for supply or fitting to a motor vehicle or trailer of brake linings containing asbestos. This is subject to exceptions for brake linings intended for fitting to pre-1973 vehicles only and clearly so marked or in packaging so marked and for armed forces vehicles. The exception for pre-1973 vehicles will cease to have effect on 1st January 2005.

Regulation 4, which comes into force on 31st March 2001, prohibits the supply, exposure for supply or fitting to a “relevant vehicle” (as defined by regulation 2) of brake linings which do not comply with the standard laid down in Directive [71/320/EEC](#) as amended by Commission Directive [98/12/EC](#) (“the Braking Devices Directive”). This is subject to regulation 5 which permits the supply, exposure for supply or fitting of linings intended for a vehicle first used before 1st September 1999, if they are capable of providing the level of performance required by the version of the Braking Devices Directive applicable to the vehicle when it was first used.

Regulation 6, which also comes into force on 31st March 2001, prohibits the supply, exposure for supply or fitting to a vehicle (as defined by regulation 2) which is not a relevant vehicle of brake linings which are such as to cause the vehicle to contravene the version of the Braking Devices Directive applicable to it when it was first used.

Regulation 7 specifies a 12 months time limit for the bringing of summary proceedings for offences under section 12 (offences against safety regulations) of the Consumer Protection Act 1987.

The Asbestos (Prohibitions) (Amendment) Regulations 1999 (S.I. [1999/2373](#)) (“the Asbestos Amendment Regulations 1999”) also come into force on 24th November 1999. They amend the Asbestos (Prohibitions) Regulations 1992 (S.I. [1992/3067](#)) (“the Asbestos Regulations 1992”). The Asbestos Amendment Regulations 1999 implement Commission Directive [1999/77/EC](#) of 26th July 1999 adapting to technical progress for the sixth time Annex 1 to Council Directive [76/769/EEC](#) on the approximation of laws, regulations and administrative provisions of the Member States relating to the restrictions on the marketing and use of certain dangerous substances and preparations (asbestos).

Regulation 2(8) of the Asbestos Amendment Regulations 1999 substituted a new Schedule for the Schedule to the Asbestos Regulations 1992. The Asbestos (Prohibitions) (Amendment) (No. 2) Regulations 1999 (“the No. 2 Asbestos Amendment Regulations 1999”) also come into force on 24th November 1999. They amend the new Schedule to the 1992 Regulations. The amendments have the effect of removing the derogation from the prohibitions on the importation of chrysotile or products containing it for vehicle brake linings or required solely for their manufacture. The Regulations also have the effect of removing the derogation from the prohibitions on the supply or use of chrysotile and products to which chrysotile has been intentionally added required solely for the manufacture of vehicle brake linings. In addition, a new definition of “vehicle” is substituted for the existing definition. The new definition of “vehicle” is the one used in the Road Traffic Act 1988 and includes

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motor cycles. The Schedule to the 1992 Regulations now disappplies the prohibitions on the use of chrysotile and products containing it in respect of vehicle brake linings which are supplied or used for fitting to vehicles. The effect of the new definition of “vehicle” is to extend the derogation so that it includes motor cycle brake linings.

A regulatory impact assessment has been prepared and copies can be obtained from the Department of the Environment, Transport and the Regions, Zone 2/04, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone: 0171-676 2078). Copies are being placed in the Libraries of each House of Parliament. No regulatory impact assessment has been prepared in respect of the No. 2 Asbestos Amendment Regulations 1999 as no additional costs or savings, other than those already identified in the regulatory impact assessment prepared in respect of these Regulations, are anticipated as a consequence of those regulations coming into force.

A regulatory impact assessment was prepared in respect of the Asbestos Amendment Regulations 1999 and copies can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. Copies were placed in the Library of each House of Parliament.

Copies of the Directives and ECE Regulations which are relevant to these Regulations can be obtained from The Stationery Office. Details of the Directives and Regulations are set out below.

Principal Instrument	Relevant Amending Instruments
Council Directive <a href="#">70/156/EEC</a> of 6th February 1970 (OJ No. L42, 23.2.70. p.1).	Council Directive 92/53 EEC of 18th June 1993 (OJ No. L225, 10.8.92, p.1).
Council Directive <a href="#">71/320/EEC</a> of 26th July 1971 (OJ No. L202, 6.9.71, p.37).	Commission Directive <a href="#">74/132/EEC</a> of 11th February 1974 (OJ No. L74, 19.3.74, p.7). Council Directive <a href="#">75/524/EEC</a> of 25th July 1975 (OJ No. L236, 8.9.75, p.3). Commission Directive <a href="#">79/489/EEC</a> of 18th April 1979 (OJ No. L128, 26.5.79, p.12). Council Directive <a href="#">85/647/EEC</a> of 23rd December 1985 (OJ No. L380, 31.12.85, p.1). Commission Directive <a href="#">88/194/EEC</a> of 24th March 1988 (OJ No. L92, 9.4.88, p.47). Council Directive <a href="#">91/422/EEC</a> of 15th July 1991 (OJ No. L233, 22.8.91, p.21), to which there is a corrigendum in OJ No. L275, 2.10.91, p.36. Commission Directive <a href="#">98/12/EC</a> of 27th January 1998 (OJ No. L81, 18.3.98, p.1).
Regulation 90 annexed to the Agreement of the United Nations Economic Commission for Europe concluded at Geneva on 20th March 1958 concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions.	In force 1st November 1992, amended by the 01 series of amendments on 18th September 1994.

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