

2005 No. 3165

ROAD TRAFFIC

**The Road Vehicles (Construction and Use)(Amendment)(No. 4)
Regulations 2005**

<i>Made</i> - - - -	<i>11th November 2005</i>
<i>Laid before Parliament</i>	<i>17th November 2005</i>
<i>Coming into force</i> - -	<i>12th December 2005</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 41(1), (2) and (5) of the Road Traffic Act 1988(a).

In accordance with section 195(2) of that Act he has consulted representatives of those whom he considers likely to be affected by the Regulations.

Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Construction and Use)(Amendment)(No. 4) Regulations 2005 and shall come into force on 12th December 2005.

Preliminary

2. The Road Vehicles (Construction and Use) Regulations 1986(b) shall be amended in accordance with the following provisions of these Regulations.

Amendment of regulation 3 (interpretation)

3. In regulation 3(2), in the definition “Community Directive, followed by a number”, after the words “Commission of the European Communities”, there shall be added “or the European Parliament and the Council of the European Union”.

Amendment of regulation 4 (application and exemptions)

4.—(1) Regulation 4 shall be amended as follows.

(2) In paragraph (4)—

- (a) insert at the start of paragraph (4), the words “Subject to paragraph (7),”; and
- (b) in the Table add the following item after item 10—

(a) 1988 c. 52; section 41 was amended by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 50 and Schedule 8.
(b) S.I. 1986/1078, as amended by instruments up to and including S.I. 2005/2987.

"11	A vehicle being used on a road by a vehicle examiner, who has been authorised in writing by the Secretary of State for the purpose of— (a) submitting the vehicle for an examination under section 45 of the Road Traffic Act 1988 in order to ascertain whether the examination is carried out in accordance with regulations made under that section; or (b) removing the vehicle following that examination.	The regulations in Part 2. Regulations 67, 75 to 79 and 100."
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(3) After paragraph (6) insert—

“(7) The exemption provided by item 11 in the Table in paragraph (4) shall only apply to the extent that the vehicle examiner using the vehicle in question reasonably believes that any defects in that vehicle do not give rise to a danger of injury to any person while it is being used by that person for a purpose mentioned in that item.

(8) In item 11 in the Table in paragraph (4) and paragraph (7), “vehicle examiner” means an examiner appointed under section 66A of the Road Traffic Act 1988.”.

Amendment of regulation 33 (mirrors)

5. For regulation 33, there shall be substituted the regulation set out in the Schedule to these Regulations.

Amendment to Schedule 2 (Community Directives and ECE Regulations)

6.—(1) In Table 1 in Schedule 2, in the appropriate numerical positions, there shall be added the following items—

"74C	96/96	20.12.96	L46, 17.2.97, p.1	Roadworthiness tests for motor vehicles and their trailers	
83	2000/30	6.6.2000	L203, 10.8.2000, p.1	Technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community	
84	2002/85	5.11.2002	L57, 4.12.2002, p.327	Installation and use of speed limitation devices for certain categories of motor vehicles in the Community	92/6
85	2003/26	3.4.2003	L90, 8.4.2003, p.37	Speed limiters and exhaust emissions of commercial vehicles	2000/30
86	2003/27	3.4.2003	L90, 8.4.2003, p.41	Testing of exhaust emissions from motor vehicles	96/96

87	2003/97	10.11.2003	L25, 29.1.2004, p.1	Devices for indirect vision	71/127 as amended by 79/795, 85/205, 86/562 and 88/321	
88	2004/11	11.2.2004	L44, 14.2.2004, p.19	Speed limitation devices or similar speed limitation on-board systems of certain categories of motor vehicles	92/24	9A
89	2005/27	30.3.2005	L81, 30.3.2005, p.44	Devices for indirect vision	71/127 as replaced by 2003/97"	

(2) In Table 2 in Schedule 2, after item 21A there shall be added the following item—

“	21A(1)	46.02	46	21.10.84.	Mirrors	23.06.05	”
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Signed by authority of the Secretary of State

11th November 2005

S.J. Ladyman
Minister of State
Department for Transport

REGULATION SUBSTITUTED FOR REGULATION 33

The regulation to be substituted for regulation 33 is—

“Mirrors and other devices for indirect vision

33.—(1) Save as provided in paragraphs (5) and (6), a motor vehicle (not being a road roller) which is of a class specified in an item in column 2 of the Table shall be fitted with such mirror or mirrors or other device for indirect vision, if any, as are specified in that item in column 3; and any mirror or other device for indirect vision which is fitted to such a vehicle shall, whether or not it is required to be fitted, comply with the requirements, if any, specified in that item in columns 4 and 5.

(2) Save as provided in paragraph (5), each exterior mirror with which a vehicle is required to be fitted in accordance with item 2 or 8 of the Table shall, if the vehicle has a technically permissible maximum weight (as mentioned in Annex 1 to Community Directive 71/127) exceeding 3500 kg, be a Class II mirror (as described in that Annex) and shall in any other case be a Class II or a Class III mirror (as described in that Annex).

(3) Save as provided in paragraph (5), in the case of a wheeled motor vehicle described in item 1, 2, 10 or 11 of the Table which is first used on or after 1st April 1969 the edges of any interior mirror shall be surrounded by some material such as will render it unlikely that severe cuts would be caused if the mirror or that material were struck by any occupant of the vehicle.

(4) Save as provided in paragraph (5), in the case of a motor vehicle falling within paragraph (a) in column 4 of items 1 and 7, or within item 8, of the Table—

- (a) each mirror shall be fixed to the vehicle in such a way that it remains steady under normal driving conditions;
- (b) each exterior mirror on a vehicle fitted with windows and a windscreen shall be visible to the driver, when in his driving position, through a side window or through the portion of the windscreen which is swept by the windscreen wiper;
- (c) where the bottom edge of an exterior mirror is less than 2 m above the road surface when the vehicle is laden, that mirror shall not project more than 20 cm beyond the overall width of the vehicle or, in a case where the vehicle is drawing a trailer which has an overall width greater than that of the drawing vehicle, more than 20 cm beyond the overall width of the trailer;
- (d) where the bottom edge of an exterior mirror, which complies with the requirements of Community Directive 2003/97 or 2005/27 or ECE Regulation 46.02, is less than 2 m above the road surface when the vehicle is laden, that mirror shall not project more than 25 cm beyond the overall width of the vehicle or, in the case where the vehicle is drawing a trailer which has an overall width greater than that of the drawing vehicle, more than 25 cm beyond the overall width of the trailer;
- (e) each interior mirror shall be capable of being adjusted by the driver when in his driving position; and
- (f) except in the case of a mirror which, if knocked out of its alignment, can be returned to its former position without needing to be adjusted, each exterior mirror on the driver's side of the vehicle shall be capable of being adjusted by the driver when in his driving position, but this requirement shall not prevent such a mirror from being locked into position from the outside of the vehicle.

(5) Instead of complying with paragraphs (1) to (4) a vehicle may comply—

- (a) if it is a goods vehicle with a maximum gross weight exceeding 3500 kg first used on or after 1st April 1985 and before 1st August 1989, with Community Directive 79/795, 85/205, 86/562 or 88/321 or ECE Regulation 46.01;
 - (b) if it is a goods vehicle first used on or after 1st August 1989 and before 26th January 2007—
 - (i) in the case of a vehicle with a maximum gross weight exceeding 3500 kg but not exceeding 12,000 kg, with Community Directive 79/795, 85/205, 86/562 or 88/321 or ECE Regulation 46.01; and
 - (ii) in the case of a vehicle with a maximum gross weight exceeding 12,000 kg, with Community Directive 85/205, 86/562 or 88/321 or ECE Regulation 46.01;
 - (c) if it is an agricultural motor vehicle, with Community Directive 71/127, 74/346, 79/795, 85/205, 86/562 or 88/321 or ECE Regulation 46.01;
 - (d) if it is a two-wheeled motor cycle with or without a side-car, with Community Directive 71/127, 79/795, 80/780, 85/205, 86/562 or 88/321 or ECE Regulation 46.01; and
 - (e) if it is any other vehicle, with Community Directive 71/127, 79/795, 85/205, 86/562 or 88/321 or ECE Regulation 46.01.
- (6) Instead of complying with the provisions of column 4 in items 3, 4, 7 or 8 of the Table a mirror may comply with the requirements as to construction and testing set out in—
- (a) Annex I to Community Directive 71/127, excluding paragraphs 2.3.4 and 2.6;
 - (b) Annex I to Community Directive 79/795, excluding paragraphs 2.3.3 and 2.6;
 - (c) Annex II to Community Directive 2003/97, excluding paragraph 3.4; or
 - (d) Annex II to Community Directive 2005/27, excluding paragraph 3.4.
- (7) In this regulation—
- (a) “devices for indirect vision” mean devices to observe the traffic area adjacent to the vehicle which cannot be observed by direct vision and may include conventional mirrors, camera-monitors or other devices able to present information about the indirect field of vision to the driver;
 - (b) “mirror” means any device with a reflecting surface, excluding devices such as periscopes, intended to give a clear view to the rear, side or front of the vehicle;
 - (c) “interior mirror” means a device defined in sub-paragraph (a), which can be fitted in the passenger compartment of a vehicle;
 - (d) “exterior mirror” means a device defined in sub-paragraph (a), which can be fitted on the external surface of a vehicle.
- (8) In the case of—
- (a) an agricultural motor vehicle, or
 - (b) a vehicle described in items 2 or 8 in the Table,

when drawing a trailer the references to a vehicle in the definitions in paragraph (7) shall be construed as including references to that trailer.

TABLE

(regulation 33(1))

1	2	3	4	5
Item	Class of vehicle	Mirrors or other devices for indirect vision to be fitted	Requirements to be complied with by any mirrors fitted	Requirements to be complied with by any other devices for indirect vision where fitted
1	<p>A motor vehicle which is—</p> <p>(a) drawing a trailer, if a person is carried on the trailer so that he has an uninterrupted view to the rear and has an efficient means of communicating to the driver the effect of signals given by the drivers of other vehicles to the rear;</p> <p>(b) (i) a works truck;</p> <p>(ii) a track-laying agricultural motor vehicle; and</p> <p>(iii) a wheeled agricultural motor vehicle first used before 1st June 1978, if, in each case, the driver can easily obtain a view to the rear;</p> <p>(c) a pedestrian-controlled vehicle;</p> <p>(d) a chassis being driven from the place where it has been manufactured to the place where it is to receive a vehicle body; or</p>	No requirement.	<p>(a) If the vehicle is a wheeled vehicle first used on or after 1st June 1978, Item 2 of Annex I to Community Directive 71/127 or 79/795 or Annex II to Community Directive 86/562 or 88/321 or paragraphs 4 to 8 of ECE Regulation 46.01 and paragraph (4) of this regulation.</p> <p>(b) In other cases, none, except as specified in paragraph (3).</p>	None

	(e) an agricultural motor vehicle which has an unladen weight exceeding 7370 kg and which— (i) is a track-laying vehicle or (ii) is a wheeled vehicle first used before 1st June 1978.			
2.	A motor vehicle not included in item 1, which is— (a) a wheeled locomotive or a wheeled motor tractor first used in either case on or after 1st June 1978; (b) an agricultural motor vehicle, not being a track-laying vehicle with an unladen weight not exceeding 7370 kg (which falls in item 11) or a wheeled agricultural motor vehicle first used after 1st June 1986 which is driven at more than 20 mph (which falls in item 8); or (c) a works truck.	At least one exterior mirror fitted on the offside.	None, except as specified in paragraphs (2) and (3).	None.
3.	A wheeled motor vehicle not included in items 1 or 4 first used on or after 1st April 1983 which is—	Mirrors complying with item 3 of Annex I to Community Directive 79/795 or with paragraph 2.1 of Annex III to Community Directive 86/562 or 88/321 or paragraph 16.2.1 of ECE Regulation 46.01 or, except in the case of	Item 2 of Annex I to Community Directive 71/127 or 79/795 or Annex II to Community Directive 86/562 or 88/321 or paragraphs 4 to 8 of ECE Regulation 46.01.	None.

	(a) a bus; or (b) a goods vehicle with a maximum gross weight exceeding 3500 kg (not being an agricultural motor vehicle or one which is not driven at more than 20 mph) other than a vehicle described in item 5.	a goods vehicle first used on or after 1st April 1985, mirrors as required in the entry in this column in item 8.		
4.	A wheeled motor vehicle not included in item 1 first used on or after 26th January 2007 which is— (a) a bus; (b) a goods vehicle with a maximum gross weight— (i) exceeding 3500 kg but not exceeding 7500 kg; or (ii) exceeding 7500 kg but not exceeding 12,000 kg; (not being an agricultural motor vehicle or one which is not driven at more than 20 mph).	(a) and (b)(ii) Mirrors and other devices for indirect vision complying with Annex III to Community Directive 2003/97 or 2005/27 or paragraph 15 of ECE Regulation 46.02. (b)(i) Mirrors or other devices for indirect vision complying with Community Directive 2005/27.	Paragraph 6 of Annex I and Annex II to Community Directive 2003/97 or 2005/27 or paragraphs 4, 5 and 6.1 of ECE Regulation 46.02.	Part B of Annex II to Community Directive 2003/97 or paragraph 4, 5 and 6.2 of ECE Regulation 46.02.
5.	A goods vehicle not being an agricultural motor vehicle	Mirrors complying with paragraph 2.1 of Annex III to Community	Annex II to Community Directive 86/562 or 88/321 or paragraphs 4 to 8 of	None

	with a maximum gross weight exceeding 12,000 kg which is first used on or after 1st October 1988 and before 26th January 2007.	Directive 86/562 or 88/321 or paragraph 16.2.1 of ECE Regulation 46.01.	ECE Regulation 46.01.	
6.	A goods vehicle not being an agricultural motor vehicle with a maximum gross weight exceeding 12,000 kg which is first used on or after 26th January 2007.	Mirrors or other devices for indirect vision complying with Annex III to Community Directive 2003/97 or 2005/27 or paragraph 15 of ECE Regulation 46.02.	Paragraph 6 of Annex I and Annex II to Community Directive 2003/97 or 2005/27 or paragraphs 4, 5 and 6.1 of ECE Regulation 46.02.	Part B of Annex II to Community Directive 2003/97 or paragraph 4, 5 and 6.2 of ECE Regulation 46.02.
7.	A two-wheeled motor cycle with or without a sidecar attached.	No requirement.	(a) If the vehicle is first used on or after 1st October 1978, Item 2 of Annex I to Community Directive 71/127, 79/795 or 80/780 or Annex II to Community Directive 86/562 or 88/321 or paragraphs 4 to 8 of ECE Regulation 46.01 and paragraph (4) of this regulation. (b) In other cases, none.	None.
8.	A wheeled motor vehicle not in items 1 to 7, which is first used on or after 1st June 1978 (or, in the case of a Ford Transit motor car, 10th July 1978) and before 26th January 2010.	(i) At least one exterior mirror fitted on the offside of the vehicle; and (ii) at least one interior mirror, unless a mirror so fitted would give the driver no view to the rear of the vehicle; and (iii) at least one exterior mirror fitted on the nearside of the vehicle unless an interior mirror gives the driver an adequate view to the rear.	Item 2 of Annex I to Community Directive 71/127 or 79/795 or Annex II to Community Directive 86/562 or 88/321 or paragraphs 4 to 8 of ECE Regulation 46.01 and paragraphs (2) and (4) of this regulation.	None.
9.	A wheeled motor vehicle not in items 1 to 7,	Mirrors complying with Annex III to Community	Paragraph 6 of Annex I and Annex II to Community Directive	If fitted to comply with Part B of Annex II to

	which is first used on or after 26th January 2010.	Directive 2003/97 or 2005/27 or paragraph 15 of ECE Regulation 46.02.	2003/97 or 2005/27 or paragraphs 4, 5 and 6.1 of ECE Regulation 46.02.	Community Directive 2003/97 or paragraphs 4, 5 and 6.2 of ECE Regulation 46.02.
10.	A wheeled motor vehicle, not in items 1 to 7, first used before 1st June 1978 (or in the case of a Ford Transit motor car, 10th July 1978) and a track-laying motor vehicle which is not an agricultural motor vehicle first used on or after 1st January 1958, which in either case is— (a) a bus; (b) a dual-purpose vehicle; or (c) a goods vehicle.	At least one exterior mirror fitted on the offside of the vehicle and either one interior mirror or one exterior mirror fitted on the near-side of the vehicle.	None, except as specified in paragraph (3).	None.
11.	A motor vehicle, whether wheeled or track-laying, not in items 1 to 10.	At least one interior or exterior mirror.	None, except as specified in paragraph (3).	None.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Road Vehicles (Construction and Use) Regulations 1986 (“the 1986 Regulations”).

Regulation 3 amends regulation 3 of the 1986 Regulations so that the definition of “Community Directive, followed by a number”, also includes Directives adopted by the European Parliament and the Council of the European Parliament.

Regulation 4 adds a new exemption into regulation 4(4) of the 1986 Regulations. A vehicle used by a vehicle examiner will be exempt from the requirements of the regulations in Part 2 (governing the construction, equipment and maintenance of vehicles), regulation 67 (condition relating to plate showing the vehicle identification number), regulations 75 to 79 (conditions relating to laden weight) and regulation 100 (condition relating to the avoidance of danger), where the intended purpose is to submit that vehicle for an examination at a vehicle testing station in order to ensure that the examination carried out there is in accordance with the required testing standards. The exemption also allows the vehicle to be driven away from the vehicle testing station after the completion of the examination. In order to fall within the exemption two requirements must be met. Firstly, the vehicle must be being used by a vehicle examiner who has been authorised in writing by the Secretary of State for these purposes. Secondly, the vehicle examiner using the vehicle must reasonably believe that any defects in the vehicle do not give rise to a danger of injury to any person while it is being so used for the purpose specified in the exemption.

Regulation 5 implements Directive 2003/97/EC of the European Parliament and of the Council (OJ No. L25, 29.1.2004, p.1), which replaces Council Directive 71/127/EEC (OJ No. L68, 22.3.1971, p.1) with effect from 24th January 2010; and Commission Directive 2005/27/EC (OJ No. L81, 30.3.2005, p.44) which amends Directive 2003/97/EC.

It amends the 1986 Regulations by substituting a new regulation 33 set out in the Schedule to these Regulations. The main changes to the substituted regulation 33 relates to the Table, with the addition of new items to it and a new column 5 to cover the requirements to be complied with where a vehicle is fitted with any other device for indirect vision. The table below shows the numbering for the new and old (renumbered) items.

<i>Old item no</i>	<i>New item no</i>	<i>Old item no</i>	<i>New item no</i>	<i>Old item no</i>	<i>New item no</i>
1	1	4	5		9
2	2		6	7	10
3	3	5	7	8	11
	4	6	8		

New item 4 extends the requirement to heavy goods vehicles with a maximum weight exceeding 7.5 tonnes but not exceeding 12 tonnes, which are first used on or after 26th January 2007, to be fitted with two wide-angle mirrors, a close-proximity mirror and a front mirror.

Item 4 also extends the requirement to goods vehicles with a maximum weight exceeding 3.5 tonnes but not exceeding 7.5 tonnes (but having cabins of a similar height to goods vehicles exceeding 7.5 tonnes) which are first used on or after 26th January 2007, to be fitted with two wide-angle mirrors and a close-proximity mirror.

New item 6 extends the requirement to goods vehicles with a maximum weight exceeding 12 tonnes, which are first used on or after 26th January 2007, to be fitted with an additional wide-angle mirror and a front mirror.

In all cases where a front mirror is specified, if it is not possible to fit a front mirror, a device for indirect vision (for example a camera and monitor device) may be used instead.

New item 9 extends the requirement to motor vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat, which are first used on or after 26th January 2010, to be fitted with a Class III exterior rear-view mirror on both the driver's side and the passenger's side of the vehicle; whereas previously there was a requirement for such a mirror to be fitted only to the driver's side of the vehicle.

Paragraph (4)(d) of the substituted regulation 33, provides that where the lower edge of an exterior mirror, which complies with the requirements of Directive 2003/97 or 2005/27 or ECE Regulation 46.02, is less than 2 metres above the ground when the vehicle is loaded, this mirror must not project more than 25 cm beyond the overall width of the vehicle. In the case of a vehicle drawing a trailer, where the trailer is wider than the drawing vehicle, the mirror must not project more than 25 cm beyond the overall width of the trailer.

Paragraph (7) of the substituted regulation 33, provides for definitions of mirrors and devices for indirect vision. Paragraph (8) provides that the reference to 'vehicle' in the definitions in paragraph (7) will also include a reference to a trailer in respect of the stated vehicles when drawing a trailer.

Regulation 6 amends Table 1 (Community Directives) in Schedule 2 by inserting new items into it (items 87 and 89 refer to Directives 2003/97 and 2005/27); and amends Table 2 (ECE Regulations) by inserting new item 21A(1) (to include a reference to ECE Regulation 46.02).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business (in respect of the provisions relating to the implementation of Directives 2003/97/EC and 2005/27/EC) is available from Transport Technology and Standards Division, Department for Transport, 2nd floor, Great Minister House, 76 Marsham Street, London SW1P 4DR (telephone 020 7944 2076). A copy has been placed in the library of each House of Parliament. The regulatory impact assessment may also be accessed on the HMSO website www.opsi.gov.uk.

A transposition note is available and can be obtained from the Department for Transport, as above.

Copies of the EC Directives and ECE Regulations referred to in these Regulations can be obtained from the Stationery Office.

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