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STATUTORY INSTRUMENTS

2005 No. 3170

ROAD TRAFFIC

**The Road Vehicles (Construction and Use)
(Amendment)(No. 5) 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⁽¹⁾.

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. 5) Regulations 2005 and shall come into force on 12th December 2005.

Preliminary

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

Amendment of regulation 36A

3.—(1) Regulation 36A shall be amended as follows.

(2) In paragraph (2C), for sub-paragraph (b), there shall be substituted—

(1) 1988 c. 52; section 41 was amended by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 50 and Schedule 8.
(2) S.I. 1986/1078, relevant amending instruments are S.I. 1988/271, 1991/1527, 1992/422, 1993/3048, 1994/329, 1995/1458, 1996/2064, 1997/1340, 2003/1946 and 2004/2102.

- “(b) complies with the limit values in respect of Euro III emission standards set out in Council Directive [88/77/EEC](#), as amended by amendments up to and including those effected by Commission Directive [2001/27/EC](#)(3);”.
- (3) For paragraph (7A) there shall be substituted—
- “(7A) A speed limiter fitted to a paragraph (2) vehicle which—
- (a) was first used before 1st January 2005 and has a maximum gross weight exceeding 10 tonnes; or
 - (b) was first used before 1st October 2001 and has a maximum gross weight exceeding 7.5 tonnes but not exceeding 10 tonnes;
- may be set at a maximum speed of 100 km/h.”.
- (4) In paragraph (13)—
- (a) the word “or” immediately after sub-paragraph (a) shall be omitted; and
 - (b) after sub-paragraph (b) there shall be added—
 - “(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; or
 - (e) while it is being used for fire and rescue authority purposes or for or in connection with the exercise of any function of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005(4), for ambulance purposes or police purposes.”.
- (5) In paragraph (14), in the appropriate alphabetical position, the following definition shall be added—
- ““Euro III emission standards” means the emission limits given in rows A of the tables in section 6.2.1 of Annex 1 to Directive [1999/96/EC](#) of the European Parliament and of the Council(5) (amending Council Directive [88/77/EEC](#));”.

Amendment of regulation 36B

- 4.—(1) Regulation 36B shall be amended as follows.
- (2) For paragraph (1B), there shall be substituted—
- “(1B) Subject to paragraphs (1C) and (14), this regulation also applies to every motor vehicle, not being a motor vehicle to which paragraph (1) applies, which—
- (a) is a goods vehicle;
 - (b) has a maximum gross weight exceeding 3,500 kg but not exceeding 12,000 kg;
 - (c) was first used on or after 1st October 2001 and before 1st January 2005;
 - (d) complies with the limit values in respect of Euro III emission standards set out in Council Directive [88/77/EEC](#), as amended by amendments up to and including those effected by Commission Directive [2001/27/EC](#); and
 - (e) has, or if a speed limiter were not fitted to it would have, a relevant speed exceeding 90km/h;
- and a reference in this regulation to a paragraph (1B) vehicle is a reference to a vehicle to which this regulation applies by virtue of this paragraph.”.

(3) OJ No. L107, 18.4.2001, p.10.[DfT 13723]

(4) [2005 asp5](#).

(5) OJ No. L44, 16.2.2000, p1.

(3) In paragraph (15), in the appropriate alphabetical position, the following definition shall be added—

““Euro III emission standards” means the emission limits given in rows A of the tables in section 6.2.1 of Annex 1 to Directive [1999/96/EC](#) of the European Parliament and of the Council (amending Council Directive [88/77/EEC](#));”.

Signed by authority of the Secretary of State

11th November 2005

S.J. Ladyman
Minister of State
Department for Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 paragraphs (2C), (13) and (14) of, and substitutes a new paragraph (7A) in, regulation 36A of the 1986 Regulations. The amendment to paragraph (2C) makes it clear that it is compliance with the limit values set out in Council Directive [88/77/EEC](#), as amended by subsequent Directives, that is required. New paragraph (7A) has the effect of allowing the continued use of speed limiters set at a maximum speed of 100 kilometres per hour, when fitted to passenger carrying vehicles that were either first used before 1st January 2005 and with a maximum gross weight exceeding 10 tonnes; or first used before 1st October 2001 and with a maximum gross weight exceeding 7.5 tonnes but not exceeding 10 tonnes. The amendment to paragraph (13) extends the exemptions from the requirement to have a speed limiter fitted for passenger carrying vehicles in line with the exemptions set out in regulation 36B(14) for goods vehicles (when relevant for passenger carrying vehicles). The amendment to paragraph (14) provides for the insertion of a definition for the term “Euro III emission standards”.

Regulation 4 substitutes paragraph (1B) in, and amends paragraph (15) of, regulation 36B. New paragraph (1B) makes it clear that its provisions apply to a goods vehicle and that it is compliance with the limit values set out in Directive [88/77/EEC](#), as amended by subsequent Directives, that is required. The amendment to paragraph (15) provides for the insertion of a definition for the term “Euro III emission standards”.

[S.I. 2004/2102](#) amended the 1986 Regulations to give effect to Directive [2002/85/EC](#) of the European Parliament and of the Council (OJ No. L57, 4.12.2002, p.327), which amended Council Directive [92/6/EC](#) on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ No. L57, 2.3.1992, p.27). The new paragraphs (2C) and (7A) of regulation 36A and new paragraph (1B) of regulation 36B, inserted by those Regulations, did not fully give effect to Directive [2002/85/EC](#) and required amendment in the way effected in these Regulations. The amendment to regulation 36A(2C) and regulation 36B(1B) necessitated a definition for the term “Euro III emission standards”. The opportunity has been taken to amend regulation 36A(13).

A full regulatory impact assessment has not been produced for this instrument as the impact on the costs of business will not affect the regulatory impact assessment produced for [SI 2004/2102](#). A copy of that regulatory impact assessment can be requested from the Driver Vehicle and Operator Policy Unit, Department for Transport, 5th floor, Southside, 105 Victoria Street, London SW1E 6DT (telephone 020 7944 6575).