

**EXPLANATORY MEMORANDUM TO THE
TRACTOR ETC (EC TYPE APPROVAL) REGULATIONS 2005**

2005 No. 390

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These new regulations implement:

European Directive 2003/37/EC on the type approval of agricultural and forestry tractors, their trailers and interchangeable equipment together with their systems components and separate technical units.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 This legislation implements EC Directive 2003/37/EC as mentioned in 2.1.1 above

4.2 At present each of the EU member states has its own procedures and standards that allow for the, registration or first use of agricultural and forestry vehicles. These are generally mass produced standard tractor types as well as agricultural trailers and interchangeable towed machinery.

4.3 The current system can mean that a manufacturer has to produce country specific versions of vehicles and submit their designs for the different approval procedures for each country that they wish to sell their products in. This process can be expensive and time consuming and it represents a disproportionate amount of the cost of bringing a vehicle to market.

4.4 The implementation of the requirements of this Directive will mean that manufacturers will be able to sell their products in all the member states without having to change the designs to meet any specialised local requirements.

4.5 The draft of the Directive was subject of an Explanatory Memorandum 5692/02 submitted by PUSS Department for Transport on 26th February 2002.

- 4.6 The EM Cleared scrutiny at the 1094th sif of the Lords Select Committee on the European Communities on 5 March 2002. The House of Commons Scrutiny Committee cleared the EM as "politically Important" in a report of the 20th session 2001-02 on 8 March.
- 4.7 Both Committees were updated by letter on 18 June informing them of the progress of the draft Directive and that it was to be put up to Council.
- 4.8 The House of Commons Scrutiny Committee in their report of the 34th Session 2001-02 deemed it "politically important" and cleared it. Sub Committee B of the House of Lords voted in favour of the text that had been submitted to the Council.

5. Extent

- 5.1 This instrument applies to Great Britain and Northern Ireland.

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy background

- 7.1 There is currently in existence a Directive, EC Directive 74/150/EEC, on the type approval of agricultural vehicles. However, its scope is limited to tractors with design speeds of between 6 and 40 km/h, its requirements are optional and sit alongside national requirements. This means that not all the agricultural and forestry tractors, trailers and interchangeable towed machinery are required to meet international type approval requirements. Instead their use is governed solely by national law to permit the registration and/or first use of these vehicles. This allows different standards and approval procedures in the different Member States, which consequently result in increased and unnecessary costs for manufacturers selling their products in other countries.
- 7.2 The technical requirements of the existing directive (74/150 EEC) are not comprehensive, and accordingly safety standards are variable throughout the Member States. The EC decided to harmonise standards and at the same time bring the law into line with the type approval regimes which apply for motor cars and motor-cycles. It was also decided that the scope of the type approval procedure should be extended to wheeled agricultural and forestry tractors.
- 7.3 The Department issued a consultation letter on the proposed new regulations in July 2004. The letter was sent to 222 organisations and bodies who had expressed an interest to the Department in the

manufacture and use of these types of vehicles. Those consulted included manufacturers, operators, highway authorities, the Police, road safety organisations and other Government Departments and Agencies as well as the devolved assemblies for Wales and Scotland. Seven responses were received, including one from the Health and Safety Executive and another from The Police Federation of England and Wales. No contentious issues arose from the replies to the consultation; therefore the decision to proceed with the making of these regulations was taken.

8. Impact

- 8.1 A Regulatory Impact Assessment is attached to this Memorandum.
- 8.2 There will be no additional costs incurred in implementing this legislation as manufacturers of these vehicles and their components parts already build them to the standards required by these regulations.

9. Contact

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Regulatory Impact Assessment

1. (1) Title of the measure:

Implementation of European Directive 2003/37/EC on the Type Approval of Agricultural and Forestry Tractors, Their Trailers and Interchangeable towed equipment, together with their systems, components and separate technical units.

2(i) The issues and objectives

Issue:

Prior to the implementation of this Directive each of the EU Member States has its own procedures and standards for the permitting, registration or first use of agricultural and forestry vehicles. This can mean that a manufacturer has to produce country specific versions of vehicles and submit to different approval procedures for each of those countries. This can be expensive and it represents a disproportionate amount of the cost of bringing a vehicle to market.

The current framework directive 74/150/EEC, on the type approval of agricultural and forestry tractors is limited in its scope. It includes only agricultural tractors with a design speed of less than 40 km/h.

It does not include:

- the new faster tractors with a design speed of more than 40 km/h
- trailers
- towed equipment.

That Directive is optional and sits alongside national requirements. As the Directive does not include all the main agricultural and forestry tractors, trailers and towed equipment the requirement and procedures to permit registration and / or first use are often the remit of national regulations. This results in different standards and approval procedures in different member states, which consequently results in increased and unnecessary costs for manufactures.

As the technical requirements of the existing directive are not comprehensive, safety standards are also variable throughout the Member States.

An indication of the scale of the issue and costs involved can be taken from a report entitled "Restrictions of the Free Circulation of Off-road Machinery in the EU".

Table 2.1 of the report is shown below:

Size of the EU Off-road Machinery Industry

Categories of off-road machines	Millions of EUR in 2000						
	Production					Trade surplus	Size of the market
	Germany	France	Italy	United Kingdom	EU (15)	EU (15)	EU (15)
Tractors	1,622	590	3,022	1,548	7,372	703	6,669
Other agricultural machinery	1,600	1,094	1,573	498	6,727	376	6,351
Construction machinery	1,506	1,082	1,720	2,903	9,106	2,076	7,030
Mobile Cranes							800
Industrial trucks ^{a)}							100
Total	4,728	2,766	6,315	4,949	23,205	3,155	20,950
a) Total market volume € 2 billions, but only 5% relevant for roading approval							

Source: Off-Highway Research; EUROSTAT; VDMA; ifo Institute for Economic Research.

The report gives the total EU output as € 24 billions, and as € 17 billions excluding tractors. It also estimates the total costs for approval procedures, not including tractors as € 115 millions of which € 68 are characterised as excess costs and could be saved by a harmonised regulatory system.

Objective:

To reduce the cost and administrative burden in bringing agricultural vehicles to market by removing the individual national requirements and substituting a uniform, Mandatory European wide system acceptable to all Member States.

To improve safety of agricultural vehicles by having consistent manufacturing techniques and recognising the special application of these vehicles and the risks that are involved in their use. Adopting common standards that seek to minimise those risks by proper construction standards that permit the vehicles to use their full functionality as safely as is reasonably possible.

3(i) Options

This Directive is the consequence of a proposal of the European Commission that has been subsequently developed by working groups with input both from the Member States and representatives of industry.

Option 1 - Do not implement the Directive and risk infraction proceedings as it can be argued that the provisions for mandatory type approval do not deliver sufficient benefits.

Option 2 - Implement the Directive in to UK legislation.

3(ii) Issues of Equity or fairness

The impact will be largely equal across all manufacturers and importers of vehicles within the scope of this Directive. The effect should be beneficial, as costs associated with multiple approval procedures will be removed. Manufacturing costs will also be reduced as the necessity to produce different variants to support the national requirements of the different Member States will be removed.

There are currently no compulsory type approval procedures in the UK. Many manufacturers will have approvals to the current directives or to accepted equivalent standards as they trade in various markets. However a manufacturer who solely trades within the UK and currently chooses not to have his vehicles approved to any standard would have to have these vehicles approved.

4. (1) Benefits

The benefits associated with implementing the Directive into UK legislation:

- Reduction in the administrative costs of the approval procedures where type approval is currently required.
- Reduction in the time taken to get new products to market and selling throughout all member states.
- Improved safety standards.

Option 1 - This would negate the benefits of the Directive and would lead to the UK having infraction procedures imposed.

Option 2 - This will ensure that UK manufacturers will be able to sell their products in all the member states without having to change the designs to meet any specialised local requirements.

Compliance Cost for Business, Charities and Voluntary Organisations

5(i) Business sectors affected

The business sectors affected would be manufactures, importers and exporters of agricultural and forestry vehicles, trailers and towed equipment.

It is not anticipated that this Directive will affect charities or voluntary organisations.

5(ii) Compliance Costs for a "typical" business

It is anticipated that the harmonised procedures will produce a net reduction in costs for those manufacturers who currently export, or those who wish to export to other EC Member States.

The manufacturers who currently only serve the UK market and do not wish to export will incur some increased costs for type approval testing and the associated administration.

6. Small Business Litmus Test

Any small businesses, which export vehicles covered by this Directive, will benefit from the harmonised and simplified procedures in the same way as any larger business.

8. Other Costs

There are no additional costs believed to be associated with this Directive and its implementation into UK Regulations

9. Competition Assessment

An assessment of the likely effects on competition ('using the competition filter') has concluded that there will be no detrimental effect on competition as a consequence of implementing the requirements of this Directive.

10. Results of Consultations

The Department issued a consultation letter on the proposed new regulations in July 2004. The letter was sent to 222 organisations and bodies who had expressed an interest to the Department in the manufacture and use of these types of vehicles. Those consulted included manufacturers, operators, highway authorities, the Police, road safety organisations and other Government Departments and Agencies as well as the devolved assemblies for Wales and Scotland. Seven responses were received, including one from the Health and Safety Executive and another from The Police Federation of England and Wales. No contentious issues arose from the replies to the consultation; therefore the decision to proceed with the making of these regulations was taken.

11. Summary and Recommendations

The UK is legally bound to accept EC Directives and any subsequent unavoidable impact.

The implementation of this Directive represents a significant step forward. It has the twin benefits of reducing costs by harmonising approval procedures and technical requirements within the EU.

It will put the type approval system for agricultural vehicles on a similar footing to that for cars. It will reduce barriers to trade by creating commonly accepted standards and procedures. It will improve safety both on and off road as construction standards are improved. Safety will also be improved as agricultural and forestry vehicles that are not currently within the scope of the directive will in future be included.

12. Enforcement sanctions monitoring and reviews

The Directive includes procedures for establishing and monitoring conformity of production. It also provides measures to resolve disagreements

Enforcement will be simplified since all the vehicles covered by the Directive will be required to have a construction approval certificate in order to be registered and enter service.

By making regulations more straightforward, clear audit points will be established for the regulatory bodies without the penalty of extra, onerous data collection routines. Review and consequent revision will be facilitated by transparent regulations set out in a way, which can be easily amended.

Regulatory Quality

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by

David Jamieson
Parliamentary Under Secretary of State for Transport

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TRANSPOSITION NOTE

TRACTORS AND AGRICULTURAL EQUIPMENT EC TYPE-APPROVAL DIRECTIVE

Directive 2003/37/EC of 26 May on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC (O.J. L171 9.7.2003 p1).

	Objectives	Implementation	Responsibility
1.	Scope	Definition of "tractor" in regulation 2(1) and regulation 3.	
2.	Definitions	Regulation 2	
3.	Application for EC type approval	Regulation 4	Application will be made to the UK type-approval authority (defined in regulation 2 as the Secretary of State) in accordance with the requirements of , and using the form set down in, the Directive.
4.	The EC type approval process	Regulation 5	The Secretary of State will grant EC type-approval if he is satisfied it conforms with the requirements of the Directive. In accordance with article 4(2) regulation 5(2) provides that the Secretary of State may refuse to grant approval if he considers the

			vehicle is a risk to road safety, the environment or the health and safety at work of any person.
5.	Amendments to EC type approval.		Under regulation 4(2) any changes to the “information package” will require a further application for EC type approval to be made.
6.	Issue of certificate of conformity and EC type-approval mark	Regulation 6	The holder of the EC type-approval certificate.
7.	Registration sale and entry into service	Regulation 7	DVLA will only licence for use on a public road if a certificate of conformity is provided.
8, 9 and 10.	Exemptions	Regulation 8	Automatic in specified cases, but by the UK approval authority on receipt of a request from the manufacturer in the case of small series or end of series.
11, 12, 13, 14, 17 and 21	Incompatibility of vehicles, systems, components or separate technical units; Equivalence; Arrangements to ensure conformity of production;	None	These will be implemented by administrative procedures

	Obligation to provide information; verification of non-conformity; and Notification of the EC type-approval authorities and technical services		
15 16 and 18	Safeguard clauses; Failure to conform to approve type; and Notifications of decisions and legal remedies available	Regulations 5(2), 9 and 12	Type approval will not be granted if the vehicle is a serious risk to road safety, the environment or occupational safety and there is facility for withdrawing EC type approval. in specified circumstances.
19 ,20, 22, 23,24, 25 and 26	Amendment of the annexes to this directive or of the separate directives; Committee; Implementation; Enforcement measures for EC type approval; Repeal; Entry into force and Addressees		No action required