

2009 No. 142

ROAD TRAFFIC

**The Road Vehicles (Construction and Use) (Amendment)
Regulations 2009**

<i>Made</i>	- - - -	<i>29th January 2009</i>
<i>Laid before Parliament</i>		<i>3rd February 2009</i>
<i>Coming into force</i>		
<i>Regulations 3 and 8(2)</i>		<i>31st March 2009</i>
<i>Remainder</i>		<i>3rd March 2009</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 with such representative organisations as he thinks fit.

Citation and commencement

1.—(1) These Regulations may be cited as the Road Vehicles (Construction and Use) (Amendment) Regulations 2009.

(2) Regulations 3 and 8(2) come into force on 31st March 2009 and all other regulations come into force on 3 March 2009.

Preliminary

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

Amendment to regulation 33

3.—(1) Regulation 33 (mirrors and other devices for indirect vision) is amended as follows.

(2) In paragraph (1), for “paragraphs (5) and (6)”, substitute “paragraphs (5) to (6H)”.

(3) After paragraph (6) insert—

 “(6A) The requirements set out in paragraph (1) and the Table are modified as set out in paragraphs (6C) and (6D) in so far as those requirements relate to a relevant vehicle and to the fitting of class IV and class V mirrors on the passenger’s side of that vehicle.

(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; relevant amending instruments are S.I.1987/1133, 1988/271, 1989/2360, 1991/1527, 1992/422, 1993/3048, 1994/329, 1995/1458, 1996/2064, 1997/1340, 2003/1946, 2004/2102 and 2005/2987, 3165 and 3170.

(6B) The alternative requirements set out in paragraph (5) do not apply in so far as those requirements relate to a relevant vehicle and to the fitting of class IV and class V mirrors on the passenger's side of the vehicle.

(6C) Subject to paragraph (6F), a relevant vehicle which would otherwise be required to meet the requirements set out in item 3 of the Table shall instead meet the requirements set out in item 4 which are applicable to a vehicle of the same maximum gross weight.

(6D) Subject to paragraph (6F), a relevant vehicle which would otherwise be required to meet the requirements set out in item 5 of the Table shall instead meet the requirements set out in item 6.

(6E) For the purposes of paragraphs (6C) and (6D)—

- (a) the words “and other devices for indirect vision” are omitted from item 4; and
- (b) the words “or other devices for indirect vision” are omitted from items 4 and 6.

(6F) A relevant vehicle does not have to comply with paragraph (6C) or (6D) (whichever is applicable to the vehicle) in the circumstances set out in paragraph (6G) or (6H).

(6G) The first set of circumstances is where the vehicle is equipped in the manner described in article 3(2) of Community Directive 2007/38.

(6H) The second set of circumstances is where the vehicle cannot, for want of available, economically viable, technical solutions—

- (a) comply with paragraph (6C) or (6D) (whichever is applicable to the vehicle); or
- (b) be equipped in the manner described in article 3(2) of Community Directive 2007/38,

but is equipped in the manner described in article 3(3) of Community Directive 2007/38.”.

(4) After paragraph (7)(d) add—

- “(e) “class IV” and “class V”, in relation to mirrors, have the meanings given in point 1.1.1.14 of Annex I to Community Directive 2003/97(a); and
- (f) “a relevant vehicle” means a vehicle which—
 - (i) would be a goods vehicle of a class referred to in column 2 of item 4 or 6 of the Table if “1st January 2000” were substituted for “26th January 2007”; and
 - (ii) is not outside the scope of Community Directive 2007/38 by virtue of article 2(2)(b) or (c) of that Directive.”.

(5) After paragraph (8) add—

“(9) Where a provision is applied by paragraph (6C) or (6D) to a vehicle which was first used on or after 1st January 2000, that provision applies to the vehicle whatever the date of manufacture of the vehicle, and regulation 4(2) is disapplied accordingly.”.

Amendment to regulation 36A

4.—(1) Regulation 36A (speed limiters on buses) is amended as follows.

(2) In paragraph (2B), for “paragraphs (2E) and (13)” substitute “paragraph (13)”.

(3) In paragraph (2C), for “paragraphs (2D) and (13)” substitute “paragraph (13)”.

(4) Omit paragraphs (2D) and (2E).

(5) In paragraph (13)—

- (a) omit “or” immediately after sub-paragraph (d); and
- (b) after sub-paragraph (e) insert—

“; or

(a) These meanings are the same as in Community Directive 2005/27 and ECE Regulation 46.02.

- (f) which is operated by or on behalf of Her Majesty's Prison Service and used primarily for the purpose of moving Category A prisoners.”
- (6) In paragraph (14), in the appropriate alphabetical position, insert—
 - ““Category A prisoners” means that prison security category which is applied to prisoners whose escape would be highly dangerous to the public or the police or to the security of the state, no matter how unlikely that escape might be, and for whom the aim must be to make escape impossible.”

Amendment to regulation 36B

- 5.—(1) Regulation 36B (speed limiters on goods vehicles) is amended as follows.
- (2) In paragraph (1)—
 - (i) for “paragraphs (5) and (14)” substitute “paragraph (14)”; and
 - (ii) after “every motor vehicle” insert “, not being a motor vehicle to which paragraph (1B) applies,”.
- (3) In paragraph (1A), for “paragraphs (1D) and (14)” substitute “paragraph (14)”.
- (4) In paragraph (1B)—
 - (a) for “paragraphs (1C) and (14)” substitute “paragraph (14)”; and
 - (b) omit “not being a motor vehicle to which paragraph (1) applies,”.
- (5) Omit paragraphs (1C) and (1D).
- (6) In paragraph (14)—
 - (a) omit “or” immediately after sub-paragraph (e); and
 - (b) after sub-paragraph (f) insert—
 - “; or
 - (g) which is an emergency tactical response vehicle operated by or on behalf of Her Majesty's Prison Service and used primarily for the purpose of transporting people or equipment (or both) to restore order within Her Majesty's prisons or immigration detention centres.”.

Amendment to regulation 41A

- 6.—(1) Regulation 41A (alternative means of compliance for minibuses) is amended as follows.
- (2) In regulation 41A—
 - (a) that regulation shall be re-numbered as paragraph (1); and
 - (b) after that re-numbered paragraph add—
 - “(2) A minibus which is required by regulation 41 to meet the requirements specified in Schedule 6 need not meet the requirements set out in items 2 to 4 and 7 to 12 of that Schedule if it meets such requirements of ECE Regulation 52.01 or 107.01 or 107.02 as apply to that minibus.”.

Amendment to regulation 53C

- 7.—(1) Regulation 53C (alternative means of compliance for coaches) is amended as follows.
- (2) In regulation 53C—
 - (a) that regulation shall be re-numbered as paragraph (1); and
 - (b) after that re-numbered paragraph add—
 - “(2) A coach which is required by either regulation 53A or 53B, as the case may be, to meet the requirements specified in that particular provision, need not meet them if it meets such requirements of ECE Regulation 107.01 or 107.02 as apply to that coach.”.

Amendment to Schedule 2

8.—(1) Schedule 2 (Community Directives and ECE Regulations) is amended as follows.

(2) In Table I, at the end, add—

“93	2007/38	11.07.07	L184, 14.7.2007, p.25	Retrofitting of mirrors to certain heavy goods vehicles			”
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(3) In Table II—

(a) after the entry relating to item 21BA insert—

“21BB	52.01	52	1.11.1982	Construction of small buses and coaches (M2 and M3)	12.9.1995	—	—”
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(b) at the end add—

“27	107.01	107	18.6.1998	Construction of small buses and coaches (M2 and M3)	12.8.2004	—	—
28	107.02	107	18.6.1998	(Construction of small buses and coaches (M2 and M3)	10.11.2007	—	—”

Signed by authority of the Secretary of State

29th January 2009

Jim Fitzpatrick
Parliamentary under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Road Vehicles (Construction and Use) Regulations 1986 (“the 1986 Regulations”) in respect of the requirements to fit mirrors to certain goods vehicles first used on or after 1st January 2000; the speed limiter requirements for passenger carrying vehicles and goods vehicles; and the construction requirements for minibuses and coaches so as to give effect to ECE Regulations 52.01, 107.01 and 107.02. (Regulation 36A(14) of the 1986 Regulations defines “speed limiter” as “a device designed to limit the maximum speed of a motor vehicle by controlling the power output from the engine of the vehicle”.)

These Regulations, in respect of the provisions imposing requirements as to the fitting of mirrors, implement Directive 2007/38/EC of the European Parliament and of the Council of 11 July 2007 on the retrofitting of mirrors to heavy goods vehicles registered in the Community (OJ No. L184, 14.7.07, p. 25).

The 1986 Regulations were amended by S.I. 2004/2102 and 2005/3170 so as to implement 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). S.I. 2004/2102 also provided for transitional arrangements for certain categories of vehicles in respect of the requirement to fit speed limiters, which are now time expired.

Regulation 3 amends regulation 33 of the 1986 Regulations to provide that a relevant vehicle is required to comply with the provisions of item 4 or 6 (depending on the maximum gross weight of the vehicle) of the Table in regulation 33 (subject to the omission of certain words). These requirements, however, only apply in relation to the fitting of wide-angled (class IV) and close proximity (class V) mirrors on the passenger’s side of the vehicle. A relevant vehicle is a goods vehicle that, but for the amendment made by these Regulations, would not be required to comply with item 4 or 6, was first used on or after 1st January 2000 and is not excluded from the scope of Directive 2007/38/EC by article 2(2)(b) or (c) of that Directive. *Regulation 3* also provides that instead of complying with item 4 or 6, the provisions of article 3(2) or 3(3) of Directive 2007/38/EC may be complied with provided the conditions for doing so that are set out in those paragraphs of that article are met.

Regulation 4(2) to (4) amends regulation 36A so as to remove paragraphs (2D) and (2E) and the references to those paragraphs. Paragraphs (2D) and (2E) provided for transitional provisions exempting certain categories of passenger carrying vehicles from the requirement to be fitted with a speed limiter. Those provisions are now time expired. The vehicles that previously fell within paragraph (2D) are now required to be fitted with a speed limiter in accordance with paragraph (2C). The vehicles that previously fell within paragraph (2E) are now required to be fitted with a speed limiter in accordance with paragraph (2B). *Regulation 4(5)* inserts a new exemption into regulation 36A(13) for Her Majesty’s Prison Service vehicles which are primarily used in the movement of Category A prisoners. *Regulation 4(6)* inserts a new definition into regulation 36A(14) in respect of “Category A prisoners”. The category A security is one of the four security categories recommended in Lord Mountbatten of Burma’s Report of the Inquiry into Prison Escapes and Security (Cmnd 3175) (1967). The wording of the definition of “Category A prisoners” follows the category A security wording set out in that Report.

Regulation 5(3) to (5) amends regulation 36B so as to remove paragraphs (1C) and (1D) and the references to those paragraphs. Paragraphs (1C) and (1D) provided for transitional provisions exempting certain categories of goods vehicles from the requirement to be fitted with a speed limiter. Those provisions are now time expired. The vehicles that previously fell within paragraph (1C) are now required to be fitted with a speed limiter in accordance with paragraph (1B). The vehicles that previously fell within paragraph (1D) are now required to be fitted with a speed limiter in accordance with paragraph (1A). *Regulation 5(4)(b)* also has the effect that vehicles which previously fell within paragraph (1) but to which paragraph (1B) now applies are required to be fitted with a speed limiter so that their speed cannot exceed 90 kilometres per hour.

Regulation 4(6) inserts a new exemption into regulation 36B(14) for Her Majesty's Prison Service emergency tactical response vehicles which are primarily used in restoring order within Her Majesty's prisons and immigration detention centres.

Regulation 6(2) re-numbers regulation 41A of the 1986 Regulations as paragraph (1) of that regulation and then adds paragraph (2). Paragraph (2) has the effect that minibuses meeting the requirements of ECE Regulations 52.01, 107.01 or 107.02, in so far as they apply to minibuses, will not need to meet the requirements of items 2 to 4, and 7 to 12 in Schedule 6 (construction of minibuses) to the 1986 Regulations.

Regulation 7(2) re-numbers regulation 53C of the 1986 Regulations as paragraph (1) of that regulation and then adds paragraph (2). Paragraph (2) has the effect that coaches meeting the requirements of ECE Regulations 107.01 or 107.02, in so far as they apply to coaches, will not need to meet the requirements set out in regulation 53A or 53B.

Regulation 8 amends Schedule 2 of the 1986 Regulations to add Directive 2007/38/EC to Table I (Community Directives) and to add ECE Regulations 52.01, 107.01 and 107.02 to Table II (ECE Regulations).

An impact assessment (in respect of *regulation 3*) of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Transport Technology and Standards Division of the Department for Transport, Zone 2/07, Great Minster House, Marsham Street, London, SW1P 4DR (telephone: 0207 944 2115). An impact assessment (in respect of *regulations 4* and *5*) is available from the Licensing, Roadworthiness and Insurance Division of the Department for Transport, Zone 2/09 (telephone number 020 7944 2455). A copy of either impact assessment may be obtained from the Department for Transport website (www.dft.gov.uk).

A copy of both impact assessments have been placed in the library of each House of Parliament. The impact assessments are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).

An impact assessment (in respect of *regulations 6* and *7*) has not been produced as no impact on the costs of business, the public sector, third sector organisations, regulators or consumers is foreseen.

The ECE Regulations are issued by the United Nations Economic Commission for Europe. Copies of the ECE Regulations referred to in these Regulations can be obtained from the Stationery Office (telephone: 0870 2600 5522, website www.tsoshop.co.uk) or from the UNECE website <http://www.unece.org/trans/main/wp29/wp29regs101-120.html>.

Directive 2007/38/EC is available at the following web page:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:184:0025:0028:EN:PDF>

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STATUTORY INSTRUMENTS

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£5.00