

2009 No. 1899

ROAD TRAFFIC

**The Motor Vehicles (Replacement of Catalytic Converters and
Pollution Control Devices) Regulations 2009**

<i>Made</i> - - - -	<i>14th July 2009</i>
<i>Laid before Parliament</i>	<i>16th July 2009</i>
<i>Coming into force</i> - -	<i>13th August 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

He is designated(b) for the purposes of section 2(2) in relation to the regulation of the type, description, construction or equipment of vehicles, and of components of vehicles, and in particular any vehicle type approval scheme.

Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Replacement of Catalytic Converters and Pollution Control Devices) Regulations 2009 and come into force on 13th August 2009.

Interpretation

2.—(1) A reference in these Regulations to a vehicle being of category M or N followed by a number in subscript is to be construed in accordance with Annex II to the second Framework Directive where the vehicle was approved pursuant to the requirements of that Directive and, in all other cases, Annex II to the first Framework Directive.

(2) In these Regulations—

“the 1982 Regulations” means the Motor Vehicles (Type Approval for Goods Vehicles) (Great Britain) Regulations 1982(c);

“the 1984 Regulations” means the Motor Vehicles (Type Approval) (Great Britain) Regulations 1984(d);

“the 1985 Regulations” means the Motor Vehicles (Type Approval) Regulations (Northern Ireland) 1985(e);

“the 1998 Regulations” means the Motor Vehicles (EC Type Approval) Regulations 1998(f);

(a) 1972 c. 68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) S.I. 1972/1811; to which there are amendments not relevant to these Regulations.

(c) S.I. 1982/1271; amended by S.I. 1984/697, 1987/1508, 1992/3084 and 2003/1866; there are other amending instruments but none is relevant.

(d) S.I. 1984/981; amended by S.I. 1987/1509, 1992/2908 and 1997/1502; there are other amending instruments but none is relevant.

(e) S.R. 1985/294; revoked by S.I. 1998/2051.

(f) S.I. 1998/2051; revoked by S.I. 2009/717.

“the 2007 Regulations” means the Motor Vehicles (Type Approval) Regulations (Northern Ireland) 2007(a);

“the 2009 Regulations” means the Road Vehicles (Approval) Regulations 2009(b);

“the first Framework Directive” means Council Directive 70/156/EEC(c);

“the second Framework Directive” means Directive 2007/46/EC of the European Parliament and of the Council(d);

“ECE Regulation 83” means Regulation 83 which is an annex to the UNECE Agreement and contains uniform provisions concerning the approval of vehicles with regard to the emission of pollutants according to engine fuel requirements;

“ECE Regulation 103” means Regulation 103 which is an annex to the UNECE Agreement and contains uniform provisions concerning the approval of replacement catalytic converters for power-driven vehicles (as in force on 4th April 2005);

“enforcement authority” means the Secretary of State;

“original equipment catalytic converter” has the meaning given by section 2.17 of Annex I to the Vehicle Emissions Directive or paragraph 2.1 of ECE Regulation 103;

“original pollution control device” has the meaning given in paragraph 12 of article 3 of Regulation (EC) No 715/2007 of the European Parliament and of the Council(e);

“original replacement catalytic converter” means a catalytic converter within the meaning of section 2.19 of Annex I to the Vehicle Emissions Directive or paragraph 2.3 of ECE Regulation 103;

“original replacement pollution control device” has the meaning given in paragraph 7 of article 2 of Commission Regulation (EC) No 692/2008(f);

“a 220 relevant vehicle” means a vehicle which—

(a) falls within vehicle category M₁ or N₁;

(b) is subject to—

(i) an EC certificate of conformity issued in accordance with the 1998 or 2009 Regulations, or any equivalent provision of the law of a member State (other than the United Kingdom) or any other EEA state giving effect to Article 6 of the first Framework Directive or article 18 of the second Framework Directive, or

(ii) a national certificate of conformity issued in accordance with the 1982 Regulations, the 1984 Regulations, the 1985 Regulations, the 2007 Regulations or the 2009 Regulations or any provision of the law of a member State (other than the United Kingdom) or any other EEA state having equivalent effect,

where that certificate was issued in consequence of the vehicle satisfying the requirements of the Vehicle Emissions Directive or ECE Regulation 83;

(c) is fitted with, or at the time of it being issued with a certificate of conformity was fitted with, an original equipment catalytic converter; and

(d) is first used on or after 1st March 2001;

“a 715 relevant vehicle” means a vehicle which—

(a) falls within vehicle category M₁, M₂, N₁ or N₂ and has a reference mass not exceeding 2840kg;

(b) is subject to—

(i) an EC certificate of conformity issued in accordance with the 1998 or 2009 Regulations, or any equivalent provision of the law of a member State (other than the

(a) S.R. 2007/240.

(b) S.I. 2009/717.

(c) OJ No L42, 23.2.70, p. 1; last amended by Commission Directive 2007/37/EC (OJ No L161, 22.6.07, p. 60).

(d) OJ No L263, 9.10.07, p.1; amended by Commission Regulation (EC) No 1060/2008 (OJ No L292, 31.10.08, p.1).

(e) OJ No L171, 29.6.07, p. 1; amended by Commission Regulation (EC) No 692/2008 (OJ No L199, 28.7.08, p.1).

(f) OJ No L199, 28.7.08, p.1.

United Kingdom) or any other EEA state giving effect to Article 6 of the first Framework Directive or article 18 of the second Framework Directive, or

- (ii) a national certificate of conformity issued in accordance with the 1982 Regulations, the 1984 Regulations, the 2007 Regulations or the 2009 Regulations or any provision of a member State (other than the United Kingdom) or any other EEA state having equivalent effect,

where that certificate was issued in consequence of the vehicle satisfying the requirements of the Vehicle Emissions Regulations; and

- (c) is fitted with, or at the time of it being issued with a certificate of conformity was fitted with, an original pollution control device;

“replacement catalytic converter” has the meaning given—

- (a) in the case of a catalytic converter that has been approved pursuant to the requirements set out in the Vehicle Emissions Directive, by section 2.18 of Annex I to the Vehicle Emissions Directive; or
- (b) in the case of a catalytic converter that has been approved pursuant to the requirements set out in ECE Regulation 103, by paragraph 2.2 of ECE Regulation 103;

“replacement pollution control device” has the meaning given in paragraph 13 of article 3 of Regulation (EC) No 715/2007 of the European Parliament and of the Council;

“supply” includes offering to supply, agreeing to supply, exposing for supply and possessing for supply;

“the UNECE Agreement” means the Agreement of the United Nations Economic Commission for Europe concluded at Geneva on 20th March 1958, as amended^(a), 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;

“the Vehicle Emissions Directive” means Council Directive 70/220/EEC^(b); and

“the Vehicle Emissions Regulations” means Regulation (EC) No 715/2007 of the European Parliament and of the Council and Commission Regulation (EC) No 692/2008.

(3) Other words or terms used in—

- (a) the first or second Framework Directive,
- (b) the Vehicle Emissions Directive or Vehicle Emissions Regulations, or
- (c) ECE Regulation 83 or 103,

shall, for the purposes of these Regulations, have the same meaning as in, or be construed in accordance with, those Directives or Regulations.

(4) For the purposes of the definitions of “a 220 relevant vehicle” and “a 715 relevant vehicle” in paragraph (2), a “national certificate of conformity” includes—

- (a) a Minister’s approval certificate issued in accordance with the 1982 Regulations or the 1984 Regulations;
- (b) a Department’s approval certificate issued in accordance with—
 - (i) the 1985 Regulations (but not for the purposes of the definition of “a 715 relevant vehicle”); or
 - (ii) the 2007 Regulations; and

(a) Cmnd 2535 and 3562.

(b) OJ No. L76, 6.4.70, p 1; amending Directives include Commission Directive 98/77/EC (OJ No L286, 23.10.98, p.34) and Commission Directive 2002/80/EC (OJ No L291, 28.10.02, p.20) and it was last amended by Council Directive 2006/96/EC (OJ No L363, 20.12.06, p. 81).

- (c) a national small series certificate of conformity issued in accordance with the 2009 Regulations (but does not include an individual approval certificate issued in accordance with those Regulations).

(5) For the purposes of these Regulations, the date on which a vehicle is first used is determined in accordance with—

- (a) regulation 3(3) of the Road Vehicles (Construction and Use) Regulations 1986(a), where the vehicle was first used in Great Britain; or
- (b) regulation 2(4) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(b), where the vehicle was first used in Northern Ireland.

Application to second-hand catalytic converters and pollution control devices

3. The prohibitions imposed by regulations 4(3), 5(3), 6(2), 7(2) and 8(1) do not apply in respect of—

- (a) a catalytic converter,
- (b) an assembly of catalytic converters,
- (c) a pollution control device, or
- (d) an assembly of pollution control devices,

which is second-hand.

Supply of catalytic converters for 220 relevant vehicles

4.—(1) This regulation applies in relation to a 220 relevant vehicle.

(2) This regulation does not apply in relation to a replacement catalytic converter which is of a type that was approved before 31st October 2002.

(3) No person shall supply for installation on a vehicle a catalytic converter or an assembly of catalytic converters unless it meets the requirements specified in paragraph (4), (5), (6) or (7).

(4) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is an original replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with section 5.3.8.2.1 of Annex I to the Vehicle Emissions Directive; and
- (b) is accompanied by the information which is specified in section 5.3.8.2.2 in the format specified in section 5.3.8.2.2.5 of that Annex.

(5) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is an original replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with paragraph 4.2.1 of ECE Regulation 103; and
- (b) is accompanied by the information which is specified in paragraph 4.2.2 in the format specified in paragraph 4.2.2.5 of that Regulation.

(6) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is a replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with sections 5.1 to 5.3 of Annex XIII to the Vehicle Emissions Directive; and
- (b) is accompanied by the information which is specified in section 7.1 in the format specified in section 7.2 of that Annex.

(7) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is a replacement catalytic converter which—

(a) S.I. 1986/1078, to which there are amendments not relevant to these Regulations.
(b) S.R. 1999/454.

- (a) has been clearly and indelibly marked in accordance with paragraphs 4.6 to 4.8 of ECE Regulation 103; and
- (b) is accompanied by the information referred to in paragraph 11.1 in the format specified in paragraph 11.2 of that Regulation.

Installation of catalytic converters on 220 relevant vehicles

5.—(1) This regulation applies in relation to a 220 relevant vehicle.

(2) This regulation does not apply in relation to a replacement catalytic converter which is of a type that was approved before 31st October 2002.

(3) No person shall install on a vehicle a catalytic converter or an assembly of catalytic converters unless it meets the requirements specified in paragraph (4), (5), (6), or (7).

(4) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is an original replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with section 5.3.8.2.1 of Annex I to the Vehicle Emissions Directive; and
- (b) is being installed on a vehicle for which the original replacement catalytic converter is of a type covered by point 1.10 of the addendum to the EC type-approval certificate (referred to in Appendix 1 to Annex X to the Vehicle Emissions Directive) issued in respect of that type of vehicle.

(5) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is an original replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with paragraph 4.2.1 of ECE Regulation 103; and
- (b) is being installed on a vehicle for which the original replacement catalytic converter is of a type approved as a replacement part pursuant to ECE Regulations 83 and 103.

(6) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is a replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with sections 5.1 to 5.3 of Annex XIII to the Vehicle Emissions Directive; and
- (b) is being installed on a vehicle of a type covered by point 1.2 of the addendum to the EC type-approval certificate (referred to in Appendix 2 to Annex XIII to the Vehicle Emissions Directive) issued in respect of that type of replacement catalytic converter.

(7) The requirements of this paragraph are that the catalytic converter or assembly of catalytic converters is a replacement catalytic converter which—

- (a) has been clearly and indelibly marked in accordance with paragraphs 4.6 to 4.8 of ECE Regulation 103; and
- (b) is being installed on a vehicle of a type covered by point 6 of the communication document (referred to in Annex I to ECE Regulation 103) issued in respect of that type of replacement catalytic converter.

Supply of pollution control devices for 715 relevant vehicles

6.—(1) This regulation applies in relation to a 715 relevant vehicle.

(2) No person shall supply for installation on a vehicle a pollution control device or an assembly of pollution control devices unless it meets the requirements specified in paragraph (3) or (4).

(3) The requirements of this paragraph are that the pollution control device or assembly of pollution control devices is an original replacement pollution control device which—

- (a) has been clearly and indelibly marked in accordance with point 2.1 of Annex XIII to Commission Regulation (EC) No 692/2008; and

(b) is accompanied by the information which is specified in point 2.2 of that Annex in the format specified in that point.

(4) The requirements of this paragraph are that the pollution control device or assembly of pollution control devices is a replacement pollution control device which—

(a) has been clearly and indelibly marked in accordance with point 3 of Annex XIII to Commission Regulation (EC) No 692/2008; and

(b) is accompanied by the information which is specified in point 5.1 of that Annex in the format specified in that point.

Installation of pollution control devices on 715 relevant vehicles

7.—(1) This regulation applies in relation to a 715 relevant vehicle.

(2) No person shall install on a vehicle a pollution control device or an assembly of pollution control devices unless it meets the requirements specified in paragraph (3) or (4).

(3) The requirements of this paragraph are that the pollution control device or assembly of pollution control devices is an original replacement pollution control device which—

(a) has been clearly and indelibly marked in accordance with point 2.1 of Annex XIII to Commission Regulation (EC) No 692/2008; and

(b) is being installed on a vehicle for which the original replacement pollution control device is of a type covered by point 2.3 of the Addendum to the EC type-approval certificate (referred to in Appendix 4 to Annex I to Commission Regulation (EC) No 692/2008) issued in respect of that type of vehicle.

(4) The requirements of this paragraph are that the pollution control device or assembly of pollution control devices is a replacement pollution control device which—

(a) has been clearly and indelibly marked in accordance with point 3 of Annex XIII to Commission Regulation (EC) No 692/2008; and

(b) is being installed on a vehicle of a type covered by point 1.2 of Section II of the EC type-approval certificate (referred to in Appendix 2 to Annex XIII to Commission Regulation (EC) No 692/2008) issued in respect of that type of replacement pollution control device.

Non-type approved converters and devices

8.—(1) No person shall supply a non-type approved converter or device unless—

(a) it is clearly marked or labelled—

(i) in the case of a device which is a particulate filter, “ILLEGAL TO SUPPLY FOR VEHICLES APPROVED TO EC REGULATION 715/2007”; and

(ii) otherwise, “ILLEGAL TO SUPPLY FOR TYPE-APPROVED VEHICLES FIRST USED ON OR AFTER 1/3/01”; and

(b) it is accompanied by the information which is specified—

(i) in section 7.1 in the format specified in section 7.2 of Annex XIII to the Vehicle Emissions Directive;

(ii) in paragraph 11.1 in the format specified in paragraph 11.2 of ECE Regulation 103; or

(iii) point 5.1 of Annex XIII to Commission Regulation (EC) No 692/2008 in the format specified in that point.

(2) The requirements of sub-paragraph (1)(a) or (b) shall be treated as satisfied to the extent that marking, labelling or information requirements of a member State (other than the United Kingdom) or any other EEA state, which have equivalent effect to those referred to in those sub-paragraphs, have been complied with.

(3) In this regulation “non-type approved converter or device” means—

(a) a catalytic converter,

- (b) an assembly of catalytic converters,
- (c) a pollution control device, or
- (d) an assembly of pollution control devices,

which is a replacement part capable of being fitted to a 220 relevant vehicle or a 715 relevant vehicle and which is not an original replacement catalytic converter, a replacement catalytic converter, an original replacement pollution control device or a replacement pollution control device.

Offences and enforcement

9.—(1) It shall be the duty of the enforcement authority to enforce these Regulations.

(2) The Schedule shall have effect with regard to offences, enforcement and other matters.

(3) Except in paragraph 3(2), a reference in the Schedule to an officer is a reference to any person authorised by the enforcement authority to assist the authority in enforcing these Regulations.

(4) Proceedings for an offence under these Regulations shall not be brought except by the enforcement authority.

(5) But nothing in these Regulations shall authorise the enforcement authority to bring proceedings in Scotland for an offence.

Signed by authority of the Secretary of State

14th July 2009

Sadiq Khan
Minister of State
Department for Transport

SCHEDULE

Regulation 9(2)

OFFENCES, ENFORCEMENT AND OTHER MATTERS

PART 1

PROVISIONS AS TO OFFENCES

Offences and penalties

1.—(1) If a person contravenes a regulation or paragraph specified in sub-paragraph (2), that person commits an offence.

(2) The regulations and paragraphs are—

- (a) regulation 4(3) (supplying a catalytic converter etc. for installation on a 220 relevant vehicle);
- (b) regulation 5(3) (installing a catalytic converter etc. on a 220 relevant vehicle);
- (c) regulation 6(2) (supplying a pollution control device etc. for installation on a 715 relevant vehicle);
- (d) regulation 7(2) (installing a pollution control device etc. on a 715 relevant vehicle);
- (e) regulation 8(1) (supplying a non-type approved converter or device);
- (f) paragraph 4 of this Schedule (obstructing etc. an officer); and
- (g) paragraph 5(10) of this Schedule (purporting to act as an officer).

(3) But a contravention of a regulation referred to in sub-paragraph (2)(a) to (e) is only an offence if the person contravenes the regulation in the course of that person's business.

(4) A person guilty of an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence

2.—(1) In proceedings against any person for any offence under these Regulations it shall be a defence for that person (P) to show that all reasonable steps were taken and all due diligence exercised by P to avoid committing the offence.

(2) Where in any proceedings for such an offence the defence provided by sub-paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) the act or default of another, or
- (b) reliance on information given by another,

P shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland the trial diet), a notice has been served by P under sub-paragraph (3) on the person bringing the proceedings.

(3) A notice under this sub-paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of P.

(4) P shall not be entitled to rely on the defence provided by sub-paragraph (1) by reason of reliance on information supplied by another, unless P shows that it was reasonable in all the circumstances to have relied on the information, having regard in particular to—

- (a) the steps which P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether P had any reason to disbelieve the information.

Liability of persons other than principal offender

3.—(1) Where the commission by any person of an offence under these Regulations is due to an act or default committed by some other person in the course of that other person's business, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this sub-paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) a person who was purporting to act in any such capacity,

that person, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, sub-paragraph (2) shall apply in relation to the acts and defaults of a member in connection with that member's functions of management as if that member was a director of the body corporate.

(4) Where a Scottish partnership is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership, both the partner and the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

PART 2

PROVISIONS AS TO ENFORCEMENT

Obstruction of officers and false statements

4.—(1) No person shall—

- (a) intentionally obstruct an officer when acting in pursuance of any provision of these Regulations;
- (b) intentionally fail to comply with any requirement properly made by an officer under any provision of these Regulations; or
- (c) without reasonable cause, fail to give an officer any other assistance or information which the officer may reasonably require of that person for the purposes of the exercise of the officer's functions under any provision of these Regulations.

(2) No person shall, in giving any information which is required of that person by virtue of sub-paragraph (1)(c)—

- (a) make any statement which the person knows is false in a material particular; or
- (b) recklessly make a statement which is false in a material particular.

Powers of search etc.

5.—(1) An officer may at all reasonable hours and on—

- (a) identifying himself or herself and producing authority in writing from the enforcement authority for the exercise by the officer of powers conferred on the authority by these Regulations, and
- (b) stating the purpose of the officer's actions and the grounds for undertaking them,

exercise any of the powers set out in sub-paragraph (2).

(2) The powers referred to in sub-paragraph (1) are as follows—

- (a) an officer may, for the purpose of ascertaining whether an offence under these Regulations has been committed—
 - (i) inspect any catalytic converter, assembly of catalytic converters, pollution control device or assembly of pollution control devices; and
 - (ii) enter any premises other than premises used only as a dwelling;
- (b) if an officer has reasonable cause to suspect that an offence under these Regulations has been committed, the officer may, for the purpose of ascertaining whether it has been committed, require any person carrying on, or employed in connection with, a business to produce any records relating to the catalytic converter, assembly of catalytic converters, pollution control device or assembly of pollution control devices in question and the officer may take copies of those records or any part of them;
- (c) if an officer has reasonable cause to suspect that an offence under these Regulations has been committed, the officer may seize and detain any catalytic converter, assembly of catalytic converters, pollution control device or assembly of pollution control devices for the purpose of ascertaining whether the offence has been committed;
- (d) an officer may seize and detain any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records which the officer has reason to believe may be required as evidence in proceedings for an offence under these Regulations;
- (e) an officer may, for the purpose of exercising the officer's powers of seizure under this sub-paragraph, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of these Regulations are duly observed, require any person having authority to do so to open any container and, if that person does not comply with

the requirement or if there is no person present having authority to open it, the officer may break open the container.

(3) For the purposes of sub-paragraph (2), the officer may require information stored electronically to be made available in printed form.

(4) An officer may, for the purpose of ascertaining whether an offence has been committed under these Regulations, make a purchase of a catalytic converter, assembly of catalytic converters, pollution control device or assembly of pollution control devices.

(5) If a justice of the peace is satisfied by any written information on oath—

(a) that there are reasonable grounds for believing either—

(i) that any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records, which an officer has power under this paragraph to inspect, copy, seize or require to be produced, is or are on any premises and that the inspection, copying, seizure or production of that item is likely to disclose evidence of the commission of an offence under these Regulations; or

(ii) that any offence under these Regulations has been, is being, or is about to be committed on any premises; and

(b) either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this sub-paragraph has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return,

the justice may by warrant under his or her hand, which shall continue in force for a period of one month, authorise an officer to enter the premises, if need be by force.

(6) On entering any premises by authority of a warrant granted under sub-paragraph (5), an officer shall, if the occupier is present, give to the occupier or, if the occupier is temporarily absent, leave in a prominent place on the premises, or an appropriate part of the premises, a notice in writing—

(a) summarising an officer's powers of seizure and detention of any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records under this paragraph;

(b) explaining that compensation may be payable for damage caused in entering premises and seizing and removing any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records, and giving the address to which an application for compensation should be directed; and

(c) indicating at which office of the enforcement authority and within which hours a copy of these Regulations is available to be consulted.

(7) An officer, when entering any premises by virtue of this paragraph, may be accompanied by such persons and take such equipment as appear necessary.

(8) An officer, when leaving any premises which the officer entered by virtue of a warrant, shall, if the premises are unoccupied or the occupier is temporarily absent, leave them in as secure a state as that in which they were found.

(9) When exercising any power of seizure and detention under this paragraph, an officer shall, as soon as practicable, give to the person against whom the power has been exercised, a written notice stating—

(a) precisely what has been so seized and detained;

(b) that an application for the release of a detained item may be made in accordance with paragraph 6 of this Schedule; and

(c) the procedure for making such an application.

(10) A person who is not an officer of the enforcement authority shall not purport to act as such under this paragraph.

(11) In the application of this paragraph to Scotland, the reference in sub-paragraph (5) to a justice of the peace shall include a reference to a sheriff and the references to written information on oath shall be construed as references to evidence on oath.

(12) In the application of this paragraph to Northern Ireland, the references in sub-paragraph (5) to any information on oath shall be construed as references to any complaint on oath.

Applications for the release of detained items

6.—(1) Any person having an interest in any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records detained for the time being under paragraph 5 (powers of search etc.) may apply for an order requiring any item so detained to be released to the applicant or another person.

(2) An application under this paragraph may be made—

- (a) to any magistrates' court in which proceedings have been brought in England and Wales or Northern Ireland for an offence in respect of a contravention of any provision of these Regulations in connection with the detained item;
- (b) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or
- (c) in Scotland, by summary application to the sheriff.

(3) A magistrates' court or the sheriff shall not make an order under sub-paragraph (1) unless the court or sheriff is satisfied that—

- (a) proceedings have not been brought for an offence in respect of a contravention of any provision of these Regulations in connection with the detained item or, having been brought, have been concluded; and
- (b) where no such proceedings have been brought, more than six months have elapsed since the seizure was carried out.

(4) Any person aggrieved by an order made under this paragraph by a magistrates' court or sheriff, or by a decision of such a court or sheriff not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Scotland, to the sheriff principal; or
- (c) in Northern Ireland, to the county court.

(5) In England and Wales or in Northern Ireland, an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980^(a) or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)^(b)).

Compensation for seizure and detention

7.—(1) Where an officer exercises any power under paragraph 5 (powers of search etc.) to seize and detain any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records, the enforcement authority shall be liable to pay compensation to any person having an interest in the item seized and detained in respect of any loss or damage caused by the exercise of the power if—

- (a) there has been no contravention of any provision of these Regulations; and

^(a) 1980 c. 43.

^(b) S.I. 1981/1675 (N.I. 26).

(b) the exercise of the power is not attributable to any neglect or default by that person.

(2) Any disputed question as to the right to, or the amount of, any compensation payable under this paragraph shall be determined—

(a) in England and Wales or Northern Ireland, by arbitration; or

(b) in Scotland, by a single arbiter appointed by the parties, or in the event that the parties fail to agree, by the sheriff.

Recovery of the expenses of enforcement

8.—(1) This paragraph shall apply where a court convicts a person of an offence in respect of a contravention of any provision of these Regulations in relation to any catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records.

(2) The court may (in addition to any other order it may make as to costs and expenses) order the person convicted to reimburse the enforcement authority for any expenditure which has been or may be incurred by that authority in connection with any seizure or detention by or on behalf of the authority of the catalytic converter, assembly of catalytic converters, pollution control device, assembly of pollution control devices or records.

Savings for certain privileges

9. Nothing in these Regulations shall be taken as requiring any person—

(a) to produce any records if that person would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, a claim of confidential communications, or as authorising any person to take possession of any records which are in the possession of a person who would be so entitled; or

(b) to answer any question or give any information if to do so would incriminate that person or that person's spouse or civil partner.

Savings for civil rights

10. A contract for the supply of a catalytic converter, assembly of catalytic converters, pollution control device or assembly of pollution control devices shall not be void or unenforceable by reason only of a contravention of any provision of these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements and prohibitions in connection with the installation on certain vehicles of catalytic converters and pollution control devices which are replacement parts.

Regulation 3 provides that the Regulations do not apply in relation to catalytic converters or pollution control devices that are second-hand.

Regulation 4 prohibits the supply of a catalytic converter for installation on a 220 relevant vehicle unless certain requirements are met in connection with that converter (except replacement catalytic converters of a type approved before 31st October 2002).

Regulation 5 prohibits the installation of a catalytic converter on a 220 relevant vehicle unless certain requirements are met in connection with that converter (except replacement catalytic converters of a type approved before 31st October 2002).

Regulation 6 prohibits the supply of a pollution control device for installation on a 715 relevant vehicle unless certain requirements are met in connection with that device.

Regulation 7 prohibits the installation of a pollution control device on a 715 relevant vehicle unless certain requirements are met in connection with that device.

Regulation 8 requires certain catalytic converters and pollution control devices to bear a marking or label as described in that regulation.

Regulation 9, together with *the Schedule*, provides for matters relating to offences and enforcement.

European Directives and Regulations may be downloaded without charge from the European Union Law Website (EURLEX):

<http://eur-lex.europa.eu/en/index.htm>

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector and a Transposition Note may be obtained from the Cleaner Fuels and Vehicles Division of the Department for Transport, Zone 1/34, Great Minster House, 76 Marsham Street, London, SW1P 4DR. The telephone number is 020 7944 2063. Both documents may also be downloaded from the Department for Transport website and are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).

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STATUTORY INSTRUMENTS

2009 No. 1899

ROAD TRAFFIC

The Motor Vehicles (Replacement of Catalytic Converters and
Pollution Control Devices) Regulations 2009

£5.50