ENVIRONMENT (PROMOTION OF CLEAN AND ENERGY-EFFICIENT ROAD TRANSPORT VEHICLES) REGULATIONS 2011

Subsidiary 2011/046

Subsidiary Legislation made under s. 18(c).

ENVIRONMENT (PROMOTION OF CLEAN AND ENERGY-EFFICIENT ROAD TRANSPORT VEHICLES) REGULATIONS 2011

(LN. 2011/046)

Commencement **12.4.2011**

Amending enactments	Relevant current provisions	Commencement date

EU Legislation/International Agreements involved:
Directive 2009/33/EC

ARRANGEMENT OF REGULATIONS.

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In exercise of the powers conferred upon it by section 18(c) of the Environment Act 2005 and all other enabling powers, and for the purposes of transposing into the law of Gibraltar Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles, the Government has made the following Regulations−

Title and commencement.

1. These Regulations may be cited as the Environment (Promotion of Clean and Energy-Efficient Road Transport Vehicles) Regulations 2011 and come into operation on the day of publication.

Interpretation.

2. In these Regulations, unless the context otherwise requires−

"Category M" refers to motor vehicles with at least four wheels designed and constructed for the carriage of passengers;

"Category M_1" refers to a vehicle designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat;

"Category M_2" refers to a vehicle designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes;

"Category M_3" refers to a vehicle designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding 5 tonnes;

"Category N" refers to a motor vehicle with at least four wheels designed and constructed for the carriage of goods;

"Category N_1" refers to a vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3,5 tonnes;

"Category N_2" refers to a vehicle designed and constructed for the carriage of goods and having a maximum mass exceeding 3,5 tones but not exceeding 12 tones;

"Category N_3" refers to a vehicle designed and constructed for the carriage of goods and having a maximum mass exceeding 12 tones; and

"CO_2" means carbon dioxide;

"contracting authority" means a contracting authority as defined in−

(a) Article 2(1)(a) of Directive 2004/17/EC; and

(b) Article 1(9) of Directive 2004/18/EC;

"contracting entity" means a contracting entity as referred to in Article 2(2) of Directive 2004/17/EC;

"Directive 2004/17/EC" means Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, as amended from time to time ;

"Directive 2004/18/EC" means Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as amended from time to time ;

"NMHC" means non-methane hydro-carbons;

"No_x" means oxides of nitrogen;

"relevant operator" means an operator which falls within the description in regulation 4 (b);

"road transport vehicle" means a vehicle covered by the vehicle categories listed in Table 3 of the Schedule.

Subject matter and objectives of these Regulations.

3. Every contracting authority, contracting entity and a relevant operator must, when purchasing road transport vehicles, take into account lifetime energy and environmental impacts, including energy consumption and emissions of CO_2 and of certain pollutants, for the purpose of−

(a) promoting and stimulating the market for clean and energy-efficient vehicles; and

(b) improving the contribution of the transport sector to the environment, climate and energy policies of the European Union.

Application of these Regulations.

4. These Regulations shall apply to contracts for the purchase of road transport vehicles by−

(a) a contracting authority or a contracting entity in so far as it is under an obligation to apply the procurement procedures set out in Directive 2004/17/EC or Directive 2004/18/EC ; and

(b) operators for the discharge of public service obligations under a public service contract within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road, in excess of a threshold which shall be defined by the Government not exceeding the threshold values as set out in Directive 2004/17/EC and Directive 2004/18/EC.

Exemptions.

5. The Government may exempt from the requirements of these Regulations, contracts for the purchase of the following vehicles−

(a) vehicles designed and constructed for use principally on construction sites, in quarries, ports or airport facilities;

(b) vehicles designed and constructed for use by the armed services, the fire services, the police or for civil defence; and

(c) mobile machinery.

Purchase of clean and energy-efficient road transport vehicles.

6.(1) When purchasing road transport vehicles, a contracting authority, contracting entity and a relevant operator shall–

(a) take into account the operational lifetime energy and environmental impacts as set out in subregulation (2);

(b) apply at least one of the options set out in subregulation (3),

and may also consider other environmental impacts.

(2) The operational energy and environmental impacts to be taken into account shall include at least the following-

(a) energy consumption;

(b) emissions of CO_2; and

(c) emissions of NO_x, NMHC and particulate matter.

(3) The requirements of subregulations (1) and (2) shall be fulfilled in accordance with the following options−

(a) by setting technical specifications for energy and environmental performance in the documentation for the purchase of road transport vehicles on each of the impacts considered, as well as any additional environmental impacts; or

(b) by including energy and environmental impacts in the purchasing decision, whereby−

(i) in cases where a procurement procedure is applied, this shall be done by using these impacts as award criteria; and

(ii) in cases where these impacts are monetised for inclusion in the purchasing decision, the methodology set out in regulation 7 shall be used.

Methodology for the calculation of operational lifetime costs.

7.(1) For the purposes of regulation 6(3)(b)(ii), operational lifetime costs for energy consumption, as well as for CO_2 emissions and pollutant emissions as set out in Table 2 of the Schedule, which are linked to the operation of the vehicles under purchase, shall be monetized and calculated using the methodology set out subregulations (2) and (6).

(2) The operational lifetime cost of the energy consumption of a vehicle shall be calculated using the following methodology−

(a) the fuel consumption per kilometre of a vehicle according to subregulation (7) shall be counted in units of energy consumption per kilometre whether this is given directly, which is the case for instance for electrical cars, or not and where the fuel consumption is given in different units, it shall be converted into energy consumption per kilometre, using the

conversion factors as set out in Table 1 of the Schedule for the energy content of the different fuels;

(b) a single monetary value per unit of energy shall be used and this single value shall be the lower of the cost per unit of energy of petrol or diesel before tax when used as a transport fuel;

(c) operational lifetime cost of the energy consumption of a vehicle shall be calculated by multiplying the lifetime mileage, where needed, taking into account the mileage already performed, according to subregulation (8), by the energy consumption per kilometre according to paragraph (a), and by the cost per unit of energy according paragraph (b).

(3) The operational lifetime cost for the CO_2 emissions of a vehicle shall be calculated by multiplying the lifetime mileage, where needed, taking into account the mileage already performed, according to subregulation (8), by the CO_2 emissions in kilograms per kilometre according to subregulation (7), and by the cost per kilogram taken from the range as set out in Table 2 of the Schedule.

(4) The operational lifetime cost for the pollutant emissions, as listed in Table 2 of the Schedule, of a vehicle shall be calculated by adding up the operational lifetime costs for emissions of NOx, NMHC and particulate matter.

(5) The operational lifetime cost for each pollutant shall be calculated by multiplying the lifetime mileage, where needed, taking into account the mileage already performed, according to subregulation (8), by the emissions in grams per kilometre according to subregulation (7), and by the respective cost per gram and the cost shall be taken from the Community-averaged values set out in Table 2 of the Schedule.

(6) Every contracting authority, contracting entity and relevant operator referred to in regulation 3 may apply higher costs provided such costs do not exceed the relevant values set out in Table 2 of the Schedule multiplied by a factor of 2.

(7) Fuel consumption, as well as CO_2 emissions and pollutant emissions as set out in Table 2 of the Schedule per kilometre for vehicle operation, shall be based on standardised Community test procedures for the vehicles for which such test procedures are defined in Community type approval legislation and for vehicles not covered by standardised Community test procedures, comparability between different offers shall be ensured by

using widely recognised test procedures, or the results of tests for the authority, or information supplied by the manufacturer.

(8) Lifetime mileage of a vehicle, if not otherwise specified, shall be taken from Table 3 of the Schedule.

SCHEDULE

Regulations 2, 7

Data for the calculation of operational lifetime costs of road transport vehicles

Table 1: Energy content of motor fuels

Fuel	Energy content
Diesel	36 MJ/litre
Petrol	32 MJ/litre
Natural Gas/Biogas	33-38 MJ/Nm3
Liquefied Petroleum Gas (LPG)	24 MJ/litre
Ethanol	21 MJ/litre
Biodiesel	33 MJ/litre
Emulsion fuel	32 MJ/litre
Hydrogen	11 MJ/Nm3

Table 2: Cost for emissions in road transport (in 2007 prices)

CO2	NOx	NMHC	Particulate matter
0,03-0,04 EUR/kg	0,0044 EUR/g	0,001 EUR/g	0,087 EUR/g

Table 3: Lifetime mileage of road transport vehicles

Vehicle category (M and N categories as defined in regulation 2)	Lifetime mileage
Passenger cars (M_1)	200,000 km
Light commercial vehicles (N_1)	250,000 km
Heavy goods vehicles (N_2, N_3)	1.000,000 km
Buses (M_2, M_3)	800,000 km