

S.I. No. 407/2012 — European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) (Amendment) Regulations 2012.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 26th October, 2012.*

I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by Section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving further effect to Directive 97/68/EC¹, as amended by Directive 2011/88/EU² of the European Parliament and of the Council of 16 November 2011, hereby make the following Regulations—

Citation

1. (1) These Regulations may be cited as the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) (Amendment) Regulations 2012.

(2) The Principal Regulations, the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) (Amendment) Regulations 2011 (S.I. No. 263 of 2011) and these Regulations may be cited together as the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) Regulations 2007 to 2012 and shall be construed together as one.

Definitions

2. (1) In these Regulations—

“Principal Regulations” means the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) Regulations 2007 (S.I. No. 147 of 2007).

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Amendments to the Principal Regulations

3. (1) The Principal Regulations are amended—

(a) in Regulation 2(1), by substituting for the definition of “the Directive”, the following definition:

““Directive” means Directive 97/68/EC¹ of the European Parliament and of the Council on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery of 16 December 1997, as amended by Directive 2001/63/EC³, Directive 2002/88/EC⁴, Directive 2004/26/EC⁵, Directive 2006/105/EC⁶, Regulation (EC) No 596/2009⁷, 2010/26/EU⁸ and Directive 2011/88/EU²”,

(b) by substituting for Regulation 6 the following:

“6.(1) Without prejudice to Regulations 13, 23, 24 and 25, a replacement engine, with the exception of railcar, locomotive and inland waterway vessel propulsion engines, shall comply with the limit values that the engine to be replaced had to meet when originally placed on the market.

(2) Without prejudice to Regulations 23, 26 and 27, the Authority may authorise the placing on the market of the following engines for railcars and locomotives:

(a) replacement engines that meet the Stage III A limits, where they are to replace engines for railcars and locomotives that:

(i) do not meet the Stage III A standard; or
(ii) meet the Stage III A standard but do not meet the Stage III B standard;
(b) replacement engines that do not meet Stage III A limits, where they are to replace engines for railcars without driving control and not capable of independent movement, so long as such replacement engines meet a standard no lower than the standard met by engines fitted to existing railcars of the same type.

(3) Authorisation under Regulation 6(2) may be granted only in cases where the Authority is satisfied that the use of a replacement engine that meets the requirements of the latest applicable emissions stage in the railcar or locomotive in question will involve significant technical difficulties.

(4) A label bearing the text “REPLACEMENT ENGINE” and bearing the unique reference of the associated derogation shall be affixed to engines covered by Regulation 6(1) or 6(2).

(5) The authority shall permit the placing on the market of engines, as defined in points A(i), A(ii) and A(v) of Section 1 of Annex I, under the flexibility scheme in accordance with the provisions set out in Annex XIII.” and

(c) by substituting for Regulation 11 (1) the following:

“(1) Compression ignition engines for use other than in the propulsion of railcars and inland waterway vessels may be placed on the market under a flexibility scheme in accordance with the procedure referred to in Annex XIII in addition to paragraphs 1 to 5.”

L.S.

GIVEN under my Official Seal,

23 October 2012.

PHIL HOGAN,

Minister for the Environment, Community and Local Government.

EXPLANATORY NOTE

(This is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations transpose the provisions of Directive 2011/88/EU, which amends Directive 1997/68/EC relating to the measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery, inland waterway vessels, railcars and locomotives, and to secondary engines fitted into vehicles intended for passenger or goods transport on the road.

The Regulations provide for an increase in the number of engines (other than engines in railcars, locomotives and inland waterway vessels) which can be placed on the market under the flexibility scheme from 20% to 37.5% during the transition from Stage IIIA to Stage IIIB. An optional alternative of placing a fixed number of engines on the market under the flexibility scheme is also provided under these Regulations.

The Regulations further provide that an adapted, more limited version of the flexibility scheme under 1997/68/EC now applies to locomotive engines.

The Regulations also provide a limited exemption for replacement engines in railcars and locomotives.

1 OJ L 59, 27.2.1998, p. 1

2 OJ L 305, 23.11.2011, p.1

3 OJ L 227, 23.08.2001, p. 41

4 OJ L 35, 11.02.2003, p. 28

5 OJ L 225, 25.06.2004, p. 1

6 OJ L 363, 20.12.2006, p. 368

7 OJ L 188, 18.07.2009, p. 14

8 OJ L 86, 1.4.2010, p.29