

S.I. No. 147/2007 — European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) Regulations 2007

S.I. No. 147 of 2007

EUROPEAN COMMUNITIES (CONTROL OF EMISSIONS OF GASEOUS AND PARTICULATE POLLUTANTS FROM NON-ROAD MOBILE MACHINERY) REGULATIONS 2007

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 13th April, 2007.

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by Section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Directive 97/68/EC 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 ¹, as amended by Directives 2002/88/EC ² and 2004/26/EC ³, and Commission Directive 2001/63/EC ⁴, hereby make the following Regulations—

Citation

1. These Regulations may be cited as the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) Regulations 2007.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

“the Authority” means the National Standards Authority of Ireland established by the National Standards Authority of Ireland Act 1996 (No. 28 of 1996);

“the Commission” means the Commission of the European Communities;

“the Defence Forces” has the meaning assigned by the Defence Acts 1954 to 1998;

“the 1982 Directive” means Directive 82/714/EC ⁵ of the European Parliament and of the Council relating to the laying down of technical requirements for inland waterway vessels;

“the Directive” means Directive 97/68/EC ⁶ 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 the 2001 Directive, the 2002 Directive and the 2004 Directive;

“the 2001 Directive” means Commission Directive 2001/63/EC ⁷ adapting the Directive to technical progress;

“the 2002 Directive” means Directive 2002/88/EC ⁸ of the European Parliament and of the Council amending Directive 97/68/EC relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery;

“the 2004 Directive” means Directive 2004/26/EC ⁹ of the European Parliament and of the Council amending Directive 97/68/EC relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery;

“flexibility scheme” means the procedure allowing an engine manufacturer to place on the market, during the period between two successive stages of limit values, a limited number of engines, to be installed in non-road mobile machinery, that only comply with the previous stage of emission limit values;

“Member State” means a Member State of the European Communities;

“small volume engine family” shall mean a spark-ignition engine family with a total yearly production of fewer than 5,000 units;

“small volume engine manufacturer of spark-ignition engines” shall mean a manufacturer with a total yearly production of fewer than 25,000 units;

“the Minister” means the Minister for the Environment, Heritage and Local Government;

“the 1999 Regulations” means the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) Regulations, 1999; and

“the 2002 Regulations” means the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery)(Amendment) Regulations, 2002.

(2) In these Regulations—

(a) any reference to an article or sub-article which is not otherwise identified is a reference to an article or sub-article of these Regulations;

(b) any reference to an Annex which is not otherwise identified is a reference to an Annex of the Directive and, for the avoidance of doubt, includes any amendments to the said Annex adopted in accordance with the procedures specified in Article 14 of the Directive; and

(c) a letter, word, phrase or symbol which has been assigned a meaning by the Directive has that meaning except where otherwise indicated.

Scope

3. (1) These Regulations apply to engines to be installed in non-road mobile machinery and to secondary engines fitted into vehicles intended for passenger or goods transport on the road as specified in Section 1 of Annex I to the Directive.

(2) For the purposes of the Directive, non-road mobile machinery includes, but is not limited to, bulldozers, front and back loaders, excavators, compressors, inland waterway vessels, railcars, locomotives and various types of hand-held equipment including chainsaws.

National Approval Authority

4. The National Standards Authority of Ireland shall be the national approval authority for the purposes of the Directive and these Regulations.

Placing on the market

5. (1) An engine which requires type approval for the purposes of the Directive shall

not be placed on the market, whether already installed in machinery or not, unless—

(a) an approval authority within the meaning of Article 2 of the Directive has issued a type-approval certificate in respect of the engine;

(b) the engine conforms to the type-approval requirements of the Directive in relation to emissions of gaseous and particulate pollutants; and

(c) the engine has affixed to it the markings specified in section 3 of Annex I.

(2) A Community Inland Water Navigation certificate, as provided for by the 1982 Directive, laying down technical requirements for inland waterway vessels, shall not be issued in respect of any vessel fitted with an engine that does not meet the requirements of these Regulations.

6. Without prejudice to article 13 and articles 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. The text “REPLACEMENT ENGINE” shall be attached to a label on the engine or inserted into the owner’s manual.

Exceptions

7. The provisions of articles 14, 27, 28 and 34 shall not apply to—

(a) engines for use by the Defence Forces;

(b) engines for use in machines intended primarily for the launch and recovery of lifeboats;

(c) engines for use in machines intended primarily for the launch and recovery of beach launched vessels; and

(d) engines exempted in accordance with article 6 and article 27(3).

Savings

8. A person shall not be entitled solely by reason of a type-approval granted under these Regulations to place an engine or an engine family on the market.

Application for type-approval

9. (1) An application to the Authority for type-approval of an engine or engine family shall—

(a) be submitted by the manufacturer; and

(b) be accompanied by an information folder, which shall include the information specified in Annex II and a test report from the technical service nominated by the Authority under sub-article (2).

(2) For the purposes of an application submitted to the Authority in accordance with sub-article (1), an engine conforming to the engine type characteristics described in the information folder shall be submitted to the technical service nominated by the Authority for the purpose of conducting approval tests.

(3) (a) Where the Authority determines, with regard to the parent engine submitted with an application for an engine family type-approval, that the said parent engine does not fully represent the engine family described in Annex II, Appendix 2, it shall require an alternative and, where necessary, an additional parent engine to be provided for approval purposes.

(b) An alternative engine, or an alternative engine and an additional engine, to be provided in response to a request from the Authority under paragraph (a), shall be as determined by the Authority.

(4) A separate application for type-approval shall be submitted for each engine type or each engine family type.

(5) A manufacturer shall not submit an application for type-approval of an engine or an engine family to more than one approval authority for the purposes of the Directive.

Type-approval

10. (1) On receipt of an application in accordance with article 9, the Authority shall grant type-approval for the engine type or the engine family, as the case may be, if the said engine type or engine family conforms with the particulars in the information folder and meets the requirements of these Regulations.

(2) Where the Authority decides to grant type-approval for an engine type or an engine family, it shall—

(a) compile or verify the contents of the index to the information package;

(b) complete all applicable sections of the type-approval certificate, in the form of the model given in Annex VII, for each engine type or engine family which it approves;

(c) number the type-approval certificate in accordance with the method described in Annex VIII; and

(d) deliver to the applicant the completed type-approval certificate and its

attachments.

(3) Where an engine or an engine family submitted for type-approval fulfils its function or offers a specific feature only in conjunction with other parts of non-road mobile machinery, and where compliance with one or more requirements may only be verified when the engine to be approved operates in conjunction with other machinery parts, whether real or simulated, the Authority shall—

(a) restrict the scope of the type-approval of the engine or engine family accordingly; and

(b) include in the type-approval certificate for the engine or engine family, as the case may be, any restrictions on use and indicate any conditions for fitting the engine or engine family.

(4) Where the type-approval certificate, in accordance with sub-article (3), includes restrictions on use, the manufacturer shall deliver with each engine manufactured detailed information on these restrictions and shall indicate any conditions for fitting the engine.

(5) Where a series of engine types is delivered to one single manufacturer, one information document, for the purposes of sub-article (4), will be sufficient to be provided, at the latest, on the delivery date of the first engine and which additionally lists the relevant engine identification numbers.

(6) A manufacturer shall, on receipt of a request from the Authority in accordance with Article 6(3) of the Directive, submit a list which contains the range of identification numbers for each engine type produced in accordance with the requirements of the Directive since the last reporting was made, or since the requirements of the Directive were first applicable. The list shall specify—

(i) where not clarified by the engine coding system, correlations of the identification numbers to the corresponding engine types or engine families and to the type-approval numbers; and

(ii) in cases where a manufacturer ceases to produce an approved engine type or engine family, such additional information as may be requested by the Authority.

(7) Records for the purposes of providing a list in accordance with the requirements of sub-article (6) shall be maintained by each manufacturer for a minimum period of 20 years.

(8) Each manufacturer shall, within 45 days after the end of each calendar year and at each application date referred to in articles 18, 19, 20, 21, 23, 25 and 26, send to the Authority a declaration specifying the engine types and engine families together with the relevant engine identification codes for those engines the manufacturer intends to produce.

(9) As soon as may be after the end of each calendar month, the Authority shall send

to the approval authorities of other Member States a list containing the particulars shown in Annex IX in respect of the applications for engine and engine family type-approval it has granted, refused to grant or withdrawn.

(10) On receipt of a request from an approval authority of another Member State, the Authority shall send forthwith any or all of the following information requested—

(a) a copy of the type-approval certificate for the engine or engine family, either with or without the information package for each engine type or engine family, as the case may be, which the Authority has approved, refused to approve or withdrawn;

(b) the list of engines produced according to type-approvals granted, as described in Article 6(3) of the Directive, containing the particulars shown in Annex X; and

(c) a copy of the declaration described in Article 6(4) of the Directive.

(11) As soon as may be after the end of each year or on receipt of an application from the Commission, the Authority shall send to the Commission data for the year, in the format specified in Annex XI, in respect of engine types and engine families approved since the previous notification.

(12) Where an engine type or engine family, as appropriate, meets the requirements of these Regulations in relation to emissions of gaseous and particulate pollutants, the Authority in granting type-approval for an engine type or engine family may not impose any other type-approval requirements with regard to air-polluting emissions in respect of non-road mobile machinery in which the said engine type or engine family is to be installed.

Flexible scheme for certain compression ignition engines

11. (1) Compression ignition engines for use other than in the propulsion of locomotives, railcars and inland waterway vessels, may be placed on the market under a flexible scheme in accordance with the procedure referred to in Annex XIII.

(2) The option in sub-article (1) to use a flexible scheme is additional to the requirement to obtain type-approval for engine types and engine families for the purposes of these Regulations.

(3) The Authority shall require compression ignition engines placed on the market under a flexible scheme to be labelled in accordance with Annex XIII.

Amendments to type-approvals

12. (1) A manufacturer in receipt of a type-approval certificate under these Regulations shall inform the Authority of any change in the particulars appearing in the

information folder.

(2) An application for the amendment or extension of a type-approval certificate granted under these Regulations shall be submitted to the Authority.

(3) Without prejudice to sub-article (4), where the particulars appearing in an information folder have changed from those applicable at the time of the issue of the type-approval certificate, the Authority shall, in respect of an engine type or engine family, in respect of which it granted the original type-approval—

(a) issue a revised page or revised pages of the information folder as necessary, marking each revised page to show clearly the nature of the change and the date of re-issue;

(b) amend the index to the information folder which is attached to the type-approval certificate to show the latest dates of revised pages, wherever revised pages are issued; and

(c) where any information in the type-approval certificate has changed, or where the standards of the Directive have changed subsequent to the date of issue of the said type-approval certificate, issue a revised type-approval certificate denoted by an extension number and stating clearly the reason for the revision and the date of re-issue.

(4) If the Authority finds that an amendment to an information folder, in respect of an engine type or engine family, for which it granted the original type-approval, warrants new tests or checks, it shall inform the manufacturer thereof, and issue the documents mentioned in sub-article (3) of this article only after conducting new tests or checks that indicate that the engine type or engine—family is in conformity with the requirements of these Regulations.

Inland waterway vessels

13. In the case of inland waterway vessels, any auxiliary engine with a power output of more than 560kW shall be subject to the same requirements as propulsion engines for the purposes of these Regulations.

Timetable-compression ignition engines

14. From the date on which these Regulations come into effect, the Authority may not refuse to grant type-approval for an engine type or engine family, or to issue the document as described in Annex VII, and may not impose any other type-approval requirements with regard to air-polluting emissions for non-road mobile machinery in which an engine is installed, if the engine meets the requirements specified in the Directive as regards the emissions of gaseous and particulate pollutants.

Type-approvals Stage I

15. The Authority shall refuse to grant type-approval for an engine type or engine family and to issue the document as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine is installed, for engines of a power output—

A: 130 kW P 560 kW,

B: 75 kW P < 130 kW,

C: 37 kW P < 75 kW,

if the engine fails to meet the requirements specified in the Directive and where the emissions of gaseous and particulate pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.1 of Annex I.

Type-approvals Stage II

16. The Authority shall refuse to grant type-approval for an engine type or engine family and to issue the document as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine, not already placed on the market, is installed, for engines of a power output—

D: 18 kW P < 37 kW,

E: 130 kW P 560 kW,

F: 75 kW P < 130 kW,

G: 37 kW P < 75 kW,

if the engine fails to meet the requirements specified in the Directive and where the emissions of gaseous and particulate pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.3 of Annex I.

Type-approval of Stage IIIA Engines

17. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII, and shall refuse to grant

any other type-approval for non-road mobile machinery in which an engine, not already placed on the market, is installed—

H: for engines, other than constant speed engines, of a power output: 130 kW P 560 kW,

I: for engines, other than constant speed engines, of a power output: 75 kW P < 130 kW,

J: for engines, other than constant speed engines, of a power output: 37 kW P < 75 kW,

K: for engines, other than constant speed engines, of a power output: 19 kW P < 37 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.4 of Annex I.

Type-approval of Stage IIIA Constant Speed Engines

18. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine, not already placed on the market, is installed—

Constant speed H engines: after 31 December 2009 for engines of a power output: 130 kW P < 560 kW,

Constant speed I engines: after 31 December 2009 for engines of a power output: 75 kW P < 130 kW,

Constant speed J engines: after 31 December 2010 for engines of a power output: 37 kW P < 75 kW,

Constant speed K engines: after 31 December 2009 for engines of a power output: 19 kW P < 37 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values set out in the table in section 4.1.2.4 of Annex I.

Type-approval of Stage III B Engines

19. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine, not already placed on the market, is installed—

L: after 31 December 2009 for engines, other than constant speed engines, of a power output: 130 kW P 560 kW,

M: after 31 December 2010 for engines, other than constant speed engines, of a power output: 75 kW P < 130 kW,

N: after 31 December 2010 for engines, other than constant speed engines, of a power output: 56 kW P < 75 kW,

P: after 31 December 2011 for engines, other than constant speed engines, of a power output: 37 kW P < 56 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values set out in the table in section 4.1.2.5 of Annex I.

Type-approval of Stage IV Engines

20. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine, not already placed on the market, is installed—

Q: after 31 December 2012 for engines, other than constant speed engines, of a power output: 130 kW P 560 kW,

R: after 30 September 2013 for engines, other than constant speed

engines, of a power output: 56 kW P < 130 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values set out in the table in section 4.1.2.6 of Annex I.

Type-approval of Stage III A Propulsion Engines Used in Inland Waterway Vessels

21. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII—

V1:1: for engines of power output at or above 37 kW and swept volume below 0.9 litres per cylinder,

V1:2: for engines with swept volume at or above 0.9 but below 1.2 litres per cylinder,

V1:3: for engines with swept volume at or above 1.2 but below 2.5 litres per cylinder and an engine power output of: $37 \text{ kW} \leq P < 75 \text{ kW}$,

V1:4: for engines with swept volume at or above 2.5 but below 5 litres per cylinder,

V2: after 31 December 2007 for engines with swept volume at or above 5 litres per cylinder,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.4 of Annex I.

Type-approval of Stage III A Propulsion Engines Used in Railcars

22. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII—

RC A: for engines of power output above 130 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.4 of Annex I.

Type-approval of Stage III B Propulsion Engines Used in Railcars

23. The Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII—

RC B: after 31 December 2010 for engines of power output above 130 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.5 of Annex I.

Type-approval of Stage III A Propulsion Engines Used in Locomotives

24. (1) Without prejudice to sub-article (2), the Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII—

RL A: for engines of power output: 130 kW P 560 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.4 of Annex I.

(2) The provisions of sub-article (1) shall not apply to the engine types and families where a contract had been entered into to purchase an engine before 20 May 2004 and the engine is placed on the market no later than 31 December 2007.

25. (1) Without prejudice to sub-article (2), the Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII—

RH A: after 31 December 2007 for engines of power output: $560 \text{ kW} < P$,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.4 of Annex I.

(2) The provisions of sub-article (1) shall not apply to the engine types and families where a contract had been entered into to purchase an engine before 20 May 2004 and the engine is placed on the market no later than 31 December 2009.

Type-approval of Stage III B Propulsion Engines Used in Locomotives

26. (1) Without prejudice to sub-article (2), the Authority shall refuse to grant type-approval for the following engine types or families and to issue the document as described in Annex VII—

RB: after 31 December 2010 for engines of power output above 130 kW,

where the engine fails to meet the requirements specified in the Directive and where the emissions of particulate and gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.1.2.5 of Annex I.

(2) The provisions of sub-article (1) shall not apply to the engine types and families where a contract had been entered into to purchase an engine before 20 May 2004 and the engine is placed on the market no later than 31 December 2012.

Placing on the Market: Engine Production Dates

27. (1) Without prejudice to articles 13, 23, 24, and 25 and sub-article (2), with the exception of machinery and engines intended for export to third countries, the Authority shall permit the placing on the market of engines, whether or not already installed in machinery, only if they meet the requirements of the Directive, and only if the engine is approved in compliance with one of the engine categories specified in articles 15 to 26.

(2) In the case of engine categories to which articles 17 to 26 apply, where an engine in a category specified in the first column of the table in this sub-article is produced prior to the relevant date specified in the second column in respect of such engine, the Authority shall permit the placing on the market of the said engine up to and including the relevant date specified in the third column.

	Production date prior to:	Final date to place on market:
Stage III A other than constant speed engines		
category H	31 December 2005	31 December 2007
category I	31 December 2006	31 December 2008
category J	31 December 2007	31 December 2009
category K	31 December 2006	31 December 2008

**Stage III A inland
waterway vessel
engines**

category V1:1	31 December 2006	31 December 2008
category V1:2	31 December 2006	31 December 2008
category V1:3	31 December 2006	31 December 2008
category V1:4	31 December 2008	31 December 2010
categories V2	31 December 2008	31 December 2010

**Stage III A
constant speed
engines**

category H	31 December 2010	31 December 2012
category I	31 December 2010	31 December 2012
category J	31 December 2011	31 December 2013
category K	31 December 2010	31 December 2012

**Stage III A railcar
engines**

category RC A	31 December 2005	31 December 2007
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**Stage III A
locomotive
engines**

category RL A	31 December 2006	31 December 2008
category RH A	31 December 2008	31 December 2010

**Stage III B other
than constant
speed engines**

category L	31 December 2010	31 December 2012
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category M	31 December 2011	31 December 2013
category N	31 December 2011	31 December 2013
category P	31 December 2012	31 December 2014

Stage III B railcar engines

category RC B	31 December 2011	31 December 2013
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Stage III B locomotive engines

category R B	31 December 2011	31 December 2013
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Stage IV other than constant speed engines

category Q	31 December 2013	31 December 2015
category R	30 September 2014	30 September 2016

(3) The Authority may, at the request of a manufacturer, with the exception of propulsion engines to be installed in inland waterway vessels, exempt end-of-series engines which are still in stock, or stocks of non-road mobile machinery in respect of their engines, from the time limits set out in the third column of the table in sub-article (2), in accordance with the conditions contained in Article 10(2) of the Directive, up to a period of 12 months following the dates specified in the third column of the table in sub-article (2).

Labelling to Indicate Early Compliance with the Standards of Stages IIIA, IIIB and IV

28. For engine types or engine families meeting the limit values set out in the table in section 4.1.2.4, 4.1.2.5 and 4.1.2.6 of Annex I before the dates laid down in article 27, the Authority shall allow special labelling and marking to show that the equipment concerned meets the required limit values before the dates laid down.

Timetable — Spark-Ignition Engines

29. For the purposes of these Regulations, spark—ignition engines shall be:

— Main class S: small engines with a net power 19 kW; and

the main class S shall be further divided into two categories—

— H: engines for hand-held machinery;

— N: engines for non-hand-held machinery,

as defined in the following table:

Class/Category	Displacement (cubic cm)
Hand-held engines	
Class SH:1	< 20
Class SH:2	20 <50
Class SH:3	50
Non-hand-held engines	
Class SN:1	< 66
Class SN:2	66< 100
Class SN:3	100< 225
Class SN:4	225

30. The Authority may not refuse to grant type-approval for a spark—ignition engine type or engine family, or to issue the document as described in Annex VII, and may not impose any other type-approval requirements with regard to air-polluting emissions for non-road mobile machinery in which an engine is installed, if the engine meets the requirements specified in the Directive as regards the emissions of gaseous pollutants.

Type-approvals Stage I for Spark—Ignition Engines

31. The Authority shall refuse to grant type-approval for an engine type or engine family and to issue the documents as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine is installed if the engine fails to meet the requirements specified in the Directive and where the emissions of gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.2.2.1 of Annex I.

Type-approvals Stage II for Spark—Ignition Engines

32. The Authority shall refuse to grant type-approval for an engine type or engine family and to issue the documents as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine is installed in engine classes SN:1, SN:2 and SN:4, if the engine fails to meet the requirements specified in the Directive and where the emissions of gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.2.2.2 of Annex I.

33. The Authority shall refuse to grant type-approval for an engine type or engine family and to issue the documents as described in Annex VII, and shall refuse to grant any other type-approval for non-road mobile machinery in which an engine is installed

after 1 August 2007 for engine classes SH:1, SH:2 and SN:3; and

after 1 August 2008 for engine class SH:3,

if the engine fails to meet the requirements specified in the Directive and where the emissions of gaseous pollutants from the engine do not comply with the limit values as set out in the table in section 4.2.2.2 of Annex I.

Placing on the Market: Engine Production Dates

34. Six months after the dates for the relevant category of engine in article 33, with the exception of machinery and engines intended for export to third countries, the Authority shall permit placing on the market of engines, whether or not already installed in machinery, only if they meet the requirements of the Directive.

Labelling of Early Compliance with Stage II

35. For engine types or engine families meeting the limit values set out in the table in section 4.2.2.2 of Annex I, before the dates laid down in article 33, the Authority shall allow special labelling and marking to show that the equipment concerned meets the required limit values before the dates laid down.

Exemptions from Limit Values for Certain Spark—Ignition Engines

36. All of the following—

(i) in respect of the engine classes listed below, small volume spark-ignition engine manufacturers;

(ii) in respect of the engine classes listed below, small volume engine families, to a maximum of 25,000 units, providing that the various engine families involved all have different cylinder displacements;

(iii) hand-held chainsaw: a hand-held device designed to cut wood with a saw chain, designed to be supported with two hands and having an engine capacity in excess of 45 cm³, according to EN ISO 11681-1;

(iv) top handle machine: a hand-held device with the handle on top of the machine designed to drill holes or to cut wood with a saw chain, according to ISO 11681-2;

(v) hand-held brush cutter with an internal combustion engine: a hand-held device with a rotating blade made of metal or plastic intended to cut weeds, brush, small trees and similar vegetation. It must be designed according to EN ISO 11806 to operate multi-positionally, such as horizontally or upside down, and have an engine capacity in excess of 40 cm³;

(vi) hand-held hedge trimmer: a hand-held device designed for trimming hedges and bushes by means of one or more reciprocating cutter blades, according to EN 774;

(vii) hand-held power cutter with an internal combustion engine: a hand-held device intended for cutting hard materials such as stone, asphalt, concrete or steel by means of a rotating metal blade with a displacement in excess of 50 cm³, according to EN 1454; and

(viii) non-hand-held, horizontal shaft class SN:3 engine: only those class SN:3 non-hand-held engines with a horizontal shaft that produces power equal to or less than 2.5 kW and are used mainly for select industrial purposes, including tillers, reel cutters, lawn aerators and generators,

shall be exempted from the implementation dates of stage II emission limit requirements, and the stage I emission limit requirements shall continue to apply, until

—

1 August 2007 for engine classes SN:1 and SN:2,

1 August 2009 for engine class SN:4,

1 August 2010 for engine classes SH:1, SH:2 and SN:3; and

1 August 2011 for engine class SH:3.

Conformity of Production Arrangements

37. The Authority, when granting a type-approval, shall take the necessary measures to verify, with regard to the specifications laid down in section 5 of Annex I, where necessary in cooperation with other approval authorities designated for the purposes of the Directive, that adequate arrangements have been made to ensure effective control of the conformity of production before it grants type-approval.

38. The Authority, having granted a type-approval, shall take the necessary measures to verify, with regard to the specifications laid down in section 5 of Annex I, where necessary in cooperation with other approval authorities designated for the purposes of the Directive, that the arrangements referred to in article 37 continue to be adequate and that each production engine bearing a type-approval number pursuant to the Directive continues to conform to the description as given in the approval certificate and its Annexes for the approved engine type or engine family.

Non-Conformity with the Approved Type or Family

39. There shall be failure to conform to the approved type or family where deviations from the particulars in the type-approval certificate or the information package, or both, are found to exist and where these deviations have not been authorised, pursuant to article 12, by the approval body which granted the type-approval for the purposes of the Directive.

40. Where the Authority finds that engines, accompanied by a certificate of conformity or bearing an approval mark, do not conform to the approved engine type or engine family, it shall—

(a) take the measures which it considers necessary to ensure that the engines in production conform to the approved type or family, and

(b) advise all other approval authorities designated for the purposes of the Directive of the measures taken.

41. If an approval authority of another Member State demonstrates that engines bearing a type-approval number issued by the Authority do not conform to the approved type or family, the Authority shall, on request from the said approval authority and within six months of the date of the request, verify that engines in production conform to the approved type or family.

42. The Authority shall, within one month of any withdrawal of a type-approval,

inform all other approval authorities designated for the purposes of the Directive and state the reasons for the withdrawal.

43. If the Authority disputes the failure to conform notified to it they shall, in conjunction with the authorities in the other Member States concerned, endeavour to settle the dispute, while keeping the Commission informed, and shall, where necessary, hold appropriate consultations for the purpose of reaching a settlement.

Revocation

44. (1) The 1999 Regulations and the 2002 Regulations are hereby revoked.

(2) References in any other instrument to the Regulations revoked under sub-article (1) shall be construed as references to these Regulations, as appropriate.

Penalties

45. (1) A person who contravenes or fails to comply with a provision of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment.

(2) An offence arising from contravention of a provision of these Regulations may be prosecuted summarily by the Authority.

GIVEN under my official seal,

5 April 2007

DICK ROCHE.

Minister for the Environment, Heritage and Local Government

EXPLANATORY NOTE

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

These Regulations transpose Directive 1997/68/EC, as amended by Directives 2001/63/EC, 2002/88/EC and 2004/26/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.

EC Directive 1997/68/EC set out requirements for the type-approval of certain types of compression-ignition (diesel) powered non-road mobile machinery in order to control emissions of gaseous and particulate pollutants.

Directive 1997/68/EC was subsequently amended by Directives 2002/88/EC and 2004/26/EC. The 2002 Directive introduced emission limits for spark-ignition (petrol) engines used in non-road mobile machinery while the 2004 Directive specified stricter emission limits for engines already covered by Directive 1997/68/EC and also widened the scope of the emission limits to various new classes of engines, such as those installed in inland waterway vessels, railcars and locomotives.

These Regulations transpose the 1997, 2001, 2002 and 2004 Directives in one consolidated set of Regulations and replace the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) Regulations 1999 and the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery)(Amendment) Regulations 2002.

The National Standards Authority of Ireland is designated as the national competent authority for the purposes of the Directives and these Regulations.

1 O.J. No. L 59 of 27 February 1998.

2 O.J. No. L35 of 11 February 2003.

3 O.J. No. L225 of 25 June 2004.

4 O.J. No. L227 of 23 August 2001.

5 O.J. No. L301 of 28 October 1982.

6 O.J. No. L 59 of 27 February 1998.

7 O.J. No. L227 of 23 August 2001.

8 O.J. No. L 35 of 11 February 2003.

9 O.J. No. L 225 of 25 June 2004.

