Regulation (EU) 2020/1040 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of the COVID-19 crisis (Text with EEA relevance)

REGULATION (EU) 2020/1040 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 July 2020

amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of the COVID-19 crisis

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EU) 2016/1628 of the European Parliament and of the Council[(3)] lays down requirements relating to emission limits for gaseous and particulate pollutants and EU type-approval procedures for various categories of engines for non-road mobile machinery.

(2) The dates applicable to the new emission limit values, referred to as ‘Stage V’ in Regulation (EU) 2016/1628, are set out in order to provide manufacturers with clear and comprehensive information and an appropriate period of time for the transition to Stage V, whilst at the same time substantially reducing the administrative burden for approval authorities.

(3) The COVID-19 outbreak has caused a disruption in the supply chain of critical parts and components, which has led to delays for engines and machinery fitted with those engines that comply with less stringent emission limit values than those of Stage V and that need to be placed on the market before the dates set out in Regulation (EU) 2016/1628.

(4) As a result of the disruption caused by the COVID-19 outbreak, it is very likely that non-road mobile machinery manufacturers, referred to as ‘original equipment manufacturers’ or ‘OEMs’ in Regulation (EU) 2016/1628, will not be able to ensure that engines and the machinery fitted with those engines benefiting from the transition

period under Regulation (EU) 2016/1628 meet the deadlines set out in that Regulation without these manufacturers sustaining serious economic damage.

(5) Given the current circumstances, and in order to ensure the smooth functioning of the internal market, to provide legal certainty, and to avoid potential market disruption, it is necessary to prolong certain transitional provisions of Regulation (EU) 2016/1628.

(6) Given that the prolongation of the transitional provisions will have no environmental impact, as the transition engines concerned have already been produced, coupled with the fact that it is difficult to predict the exact duration of the delays caused by the COVID-19 disruption, the extension of the relevant periods should be 12 months.

(7) Since the objective of this Regulation, namely to prolong certain transitional provisions of Regulation (EU) 2016/1628, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union ('TEU'). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(8) In view of the urgency entailed by the exceptional circumstances caused by the COVID-19 outbreak, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(9) Regulation (EU) 2016/1628 should therefore be amended accordingly.

(10) In view of the fact that the transition period provided for in Regulation (EU) 2016/1628 for certain engine sub-categories is to expire on 31 December 2020 and that OEMs had until 30 June 2020 to produce non-road mobile machinery fitted with transition engines of those sub-categories, this Regulation should enter into force as a matter of urgency on the day of its publication in the *Official Journal of the European Union* and should apply from 1 July 2020. Such an application is warranted by the unforeseeable and sudden nature of the COVID#19 outbreak as well as by the need to ensure legal certainty and equal treatment of OEMs regardless of whether they produce non-road mobile machinery before or after the date of entry into force of this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

Article 58 of Regulation (EU) 2016/1628 is amended as follows:

(1) paragraph 5 is amended as follows:

(a) the second subparagraph is replaced by the following:

> For engines of sub-categories of category NRE for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2020, Member States shall authorise the extension of the transition period