STATUTORY RULES OF NORTHERN IRELAND

2010 No. 181

ROAD TRAFFIC AND VEHICLES

The Motor Vehicles (Construction and Use) (Amendment No. 2) Regulations (Northern Ireland) 2010

Made - - - -	*14th May 2010*
Coming into operation	*11th June 2010*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Articles 55(1), (2) and (6) and 110(2) of the Road Traffic (Northern Ireland) Order 1995(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment No. 2) Regulations (Northern Ireland) 2010 and shall come into operation on 11th June 2010.

(2) In these Regulations, "the principal Regulations" means the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(**2**).

Amendment to regulation 2 (interpretation)

2. In regulation 2 of the principal Regulations—

(a) after the definition of "the 1972 Act(**3**)" insert—

""the 1988 Act" means the Road Traffic Act 1988(**4**);"; and

(b) after the definition of "the Type Approval Regulations" insert—

""the Vehicle Approval Regulations" means the Road Vehicles (Approval) Regulations 2009(**5**);".

(**1**) S.I. 1995 No. 2994 (N.I. 18); *see* Article 2(2) for the definition of "the Department"
(**2**) S.R. 1999 No. 454; relevant amending regulations are S.R. 2001 No. 173, S.R. 2002 No. 375, S.R. 2004 No. 67, S.R. 2007 No. 15, S.R. 2007 No. 481 and S.R. 2009 No. 336
(**3**) 1972 c. 10 (N.I.)
(**4**) 1988 c. 52
(**5**) S.I. 2009/717

Amendment to regulation 38 (mirrors and other devices for indirect vision)

3. In regulation 38 of the principal Regulations(**6**) in paragraph (9) for "regulation 4(2)" substitute "regulation 3(2)".

Insertion of regulation 74B (retrofitting and refilling of certain air conditioning systems)

4. After regulation 74A of the principal Regulations(**7**), insert—

"**Retrofitting and refilling of certain air conditioning systems**

74B.—(1) Subject to paragraphs (7), (8), (9) and (10) and Schedule 8, this regulation applies to vehicles set out in Article 2 of Directive 2006/40(**8**), regardless of their date of manufacture.

(2) Regulation 3(2) does not apply in relation to a vehicle to which this regulation applies.

(3) A vehicle type approved on or after 1st January 2011 may not be retrofitted with an air conditioning system designed to contain high-GWP fluorinated greenhouse gases.

(4) On or after 1st January 2017, a vehicle may not be retrofitted with an air conditioning system designed to contain high-GWP fluorinated greenhouse gases.

(5) A vehicle type approved on or after 1st January 2011 may not be fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases.

(6) On or after 1st January 2017, a vehicle may not be fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases.

(7) Paragraph (5) does not apply to a vehicle where—

(a) it was type approved on or after 1st January 2011, and

(b) on the date it was type approved, it was not prevented from being fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases by any pre-requisite for type approval imposed by—

(i) the 1981 Order(**9**) or any regulations made under it;

(ii) the 1988 Act or any regulations made under it; or

(iii) the Vehicle Approval Regulations.

(8) Paragraph (6) does not apply to a vehicle where—

(a) it was registered on or after 1st January 2017, and

(b) on the date it was registered, it was not prevented from being fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases by any pre-requisite for registration imposed by—

(i) the 1981 Order or any regulations made under it;

(ii) the 1988 Act or any regulations made under it; or

(**6**) Regulation 38 was amended by S.R. 2007 No. 15 regulation 3, S.R. 2007 No. 481 regulation 4 and S.R. 2009 No. 336 regulation 2

(**7**) Regulation 74A was inserted by S.R. 2002 No. 375, regulation 10

(**8**) Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles (OJ No. L161, 14.6.2006 p.12) and amending Council Directive 70/156/EEC (OJ No. L42, 23.02.1970, p.1 as last amended by OJ No. L161, 22.6.2007, p.60). "Community Directive" is defined by regulation 2(2) of, and Schedule 1 to, the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999.

(**9**) Articles 31A-31E, provisions dealing with type approval, were inserted in the 1981 Order by S.I. 1985 No. 755 (N.I. 6) Article 3 and amended by S.R. 1993 No. 246, S.I. 1995 No. 2994 (N.I. 18) Article 112(1) and Schedule 3, paragraph 5, S.I. 2003 No. 1099 regulation 4 and S.I. 2006 No. 1254 (N.I. 9) Article 63 (1) and Schedule 3, paragraph 14

(iii) the Vehicle Approval Regulations.

(9) Paragraph (6) does not apply to a vehicle where—

(a) it was used for the first time on a road in Northern Ireland on or after 1st January 2017 (this date not being determined, for the purposes of this sub-paragraph, in accordance with regulation 2(4)(a)), and

(b) on the date it was first so used, it was not prevented from being fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases by any pre-requisite for use imposed by—

(i) the Road Traffic (Northern Ireland) Order 1995 or any regulations made under it, except for this regulation;

(ii) the 1988 Act or any regulations made under it; or

(iii) the Vehicle Approval Regulations.

(10) Paragraph (6) does not apply to a vehicle which before 1st January 2017 was fitted with an air conditioning system containing high-GWP fluorinated greenhouse gases.

(11) For the purposes of this regulation, a vehicle was type approved if there has been issued in relation to it—

(a) an EC type approval certificate under regulation 4(5) of the EC Whole Vehicle Type Approval Regulations;

(b) an EC type approval certificate under a provision of the law of any EEA State which corresponds to regulation 4(5) of the EC Whole Vehicle Type Approval Regulations;

(c) an EC type approval certificate under regulation 13(3) of the Vehicle Approval Regulations;

(d) an EC type approval certificate under a provision of the law of any EEA State which corresponds to regulation 13(3) of the Vehicle Approval Regulations;

(e) a type approval certificate under section 55 of the 1988 Act;

(f) a Minister's approval certificate under section 58(1) of the 1988 Act;

(g) a certificate under section 58(4) of the 1988 Act by reason of the vehicle conforming with another vehicle in respect of which a Minister's approval certificate was issued under section 58(1) of that Act;

(h) a type approval certificate under Article 31A(2) of the 1981 Order;

(i) a Department's approval certificate under Article 31A(4) of the 1981 Order; or

(j) a certificate under Article 31A(5) of the 1981 Order by reason of the vehicle conforming with another vehicle in respect of which a Department's approval certificate was issued under Article 31A(4) of that Order.

(12) In this regulation—

"air conditioning system" means any system whose main purpose is to decrease the air temperature and humidity of the passenger compartment of a vehicle;

"high-GWP fluorinated greenhouse gases" means fluorinated greenhouse gases having a global warming potential higher than 150, "fluorinated greenhouse gases" has the same meaning as in Article 3(5) of Community Directive 2006/40, and "global warming potential" has the same meaning as in Article 3(8) (including the footnote) of Community Directive 2006/40, read in conjunction with the second sentence of Article 3(9) (including the footnote) of the same Directive;

"retrofitted" means fitted to a vehicle after it has been first used.".