Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (Text with EEA relevance)

REGULATION (EU) No 168/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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(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) The internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital must be ensured. To that end a comprehensive EC type-approval system for two- or three-wheel vehicles was established by Directive 2002/24/EC of the European Parliament and of the Council[(3)] on the type-approval of such vehicles. Those principles should continue to apply for this Regulation and the delegated and implementing acts adopted pursuant to this Regulation.

(2) The internal market should be based on transparent, simple and consistent rules which provide legal certainty and clarity from which businesses and consumers alike can benefit.

(3) With the aim of simplifying and accelerating the adoption of type-approval legislation, a new regulatory approach has been introduced in EU vehicle type-approval legislation, under which the legislator in the ordinary legislative procedure sets out only the fundamental rules and principles and delegates the laying down of further technical details to the Commission. With regard to substantive requirements, this Regulation should therefore lay down only fundamental provisions on functional safety and environmental performance, and empower the Commission to lay down the technical specifications.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 168/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) This Regulation should be without prejudice to measures at national or Union level regarding the use of L-category vehicles on the road, such as specific drivers' licence requirements, limitations of maximum speed or measures regulating access to certain roads.

(5) Market surveillance in the automotive sector, and in particular the L-category vehicle sector, should be improved by enhancing the legal provisions governing conformity of production and specifying the obligations of the economic operators in the supply chain. In particular, the role and responsibilities of the authorities in the Member States in charge of type-approval and market surveillance should be clarified, and the requirements relating to the competence, obligations and performance of the technical services that perform tests for vehicle type-approval reinforced. Compliance with the type-approval and conformity-of-production requirements of the legislation governing the automotive sector should remain the key responsibility of the approval authorities, while market surveillance may be a competence shared between different national authorities. Effective coordination and monitoring at Union and national levels should be deployed to ensure that approval and market surveillance authorities apply the new measures effectively.

(6) The national authorities' obligations laid down in the market surveillance provisions of this Regulation are more specific than the corresponding provisions of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products[(4)].

(7) This Regulation should contain substantive requirements for environmental protection and vehicle functional safety. The main elements of the relevant requirements of this Regulation are based on the results of the impact assessment of 4 October 2010 carried out by the Commission analysing different options by listing possible advantages and disadvantages in terms of economic, environmental, safety and societal aspects. Both qualitative and quantitative aspects were included in that analysis. After comparison of the different options the preferred options were identified and chosen to form the basis for this Regulation.

(8) This Regulation aims to lay down harmonised rules for the type-approval of L-category vehicles, with a view to ensuring the functioning of the internal market. L-category vehicles are two-, three- or four-wheel vehicles such as powered two-wheel vehicles, tricycles and quadricycles. In addition, this Regulation aims to simplify the current legal framework, to reduce the emissions from L-category vehicles, thus resulting in a more proportionate share of L-category vehicle emissions in overall road transport emissions, to increase the overall level of safety, to adapt to technical progress and to strengthen the rules on market surveillance.

(9) In order to ensure a high level of vehicle functional safety, occupational safety and environmental protection, the technical requirements and environmental standards applicable to vehicles, systems, components and separate technical units with regard to type-approval should be harmonised.

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(10) The objectives of this Regulation should not be affected by the fitting of certain systems, components or separate technical units after vehicles have been placed on the market, registered or entered into service. Thus, appropriate measures should be taken in order to make sure that systems, components or separate technical units which can be fitted to vehicles, and which could significantly impair the functioning of systems that are essential for environmental protection or functional safety, are subject to prior control by an approval authority before they are placed on the market, registered or are entered into service.

(11) Directive 95/1/EC of the European Parliament and of the Council of 2 February 1995 on the maximum design speed, maximum torque and maximum net engine power of two- or three-wheel motor vehicles[(5)] gave the option to Member States to refuse the initial registration and any subsequent registration within their territory of vehicles with a maximum net power of more than 74 kW. The anticipated correlation between safety and absolute power limitation could not be confirmed in several scientific studies. For that reason and in order to remove internal barriers to trade on the Union market, that option should no longer be maintained. Other, more effective safety measures should be introduced to help reduce the high numbers of fatalities and injuries among riders of powered two-wheel vehicles in road accidents in the Union.

(12) This Regulation sets **[**[X1]environmental performance requirements**]** for two stages with the second stage (Euro 5) being mandatory for new types of vehicles as of 1 January 2020, thereby creating long-term planning predictability for the vehicle manufacturers and the supplier industry. Based on future available data, an environmental effect study required by this Regulation should provide additional underpinning through modelling, technical feasibility and cost-effectiveness analysis based on the latest available data. In addition, the study should, inter alia, assess the feasibility and cost-effectiveness of in-service conformity testing requirements, off-cycle emission requirements and a particulate number emission limit for certain (sub-)categories. On the basis of the study results, the Commission should consider presenting a proposal introducing these new elements into future type-approval legislation applicable after the stages provided for in this Regulation.

(13) The EU type-approval system is intended to enable each Member State to confirm that each type of vehicle has undergone the checks provided for in this Regulation and in delegated and implementing acts adopted pursuant to this Regulation, and that its manufacturer has obtained a type-approval certificate. It furthermore obliges manufacturers to issue a certificate of conformity for each vehicle produced in accordance with the type-approval. When a vehicle is accompanied by such a certificate it should be permitted to be made available on the market and registered for use throughout the Union.

(14) In order to ensure that the procedure for monitoring conformity of production, which is one of the cornerstones of the EU type-approval system, has been correctly implemented and functions properly, manufacturers should be regularly checked by a competent authority or by an appropriately qualified technical service designated for that purpose.

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(15) This Regulation constitutes a set of specific safety and **[**X1environmental performance requirements**]**. Therefore, it is important to establish provisions to ensure that, in cases where a vehicle presents a serious risk for users or the environment, the manufacturer or any other economic operator in the supply chain has taken effective protective measures, including the recall of vehicles, within the meaning of Article 20 of Regulation (EC) No 765/2008. Approval authorities should therefore be able to assess whether those measures are sufficient.

(16) In certain limited cases, it is appropriate to allow for national small series type-approval. In order to prevent misuse, any simplified procedure for small-series vehicles should be restricted to cases of very limited production. It is therefore necessary to define precisely the concept of small series in terms of the number of vehicles produced.

(17) The Union is a contracting party of the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')[(6)]. In order to simplify the type-approval legislation in line with the recommendations of the report published by the Commission in 2006 entitled 'CARS 21: A Competitive Automotive Regulatory System for the 21st century', it is appropriate to repeal all separate Directives without reducing the level of protection. The requirements set out in those Directives should be carried over to this Regulation or to the delegated acts adopted pursuant to this Regulation and should be replaced, where appropriate, with references to the corresponding United Nations Economic Commission for Europe (UNECE) regulations which the Union has voted in favour of or to which the Union has acceded and which are annexed to the Revised 1958 Agreement. To reduce the administrative burden of the type-approval process, vehicle manufacturers should be allowed to seek type-approval in accordance with this Regulation, where appropriate, directly by means of obtaining approval under the relevant UNECE regulations referred to in the Annexes to this Regulation or in the delegated acts adopted pursuant to this Regulation.

(18) Consequently, UNECE regulations and the amendments thereto on which the Union has voted in favour, in application of Decision 97/836/EC, should be incorporated within the EU type-approval legislation. Accordingly, the power should be delegated to the Commission to adopt the necessary adaptations to the Annexes to this Regulation or to the delegated acts adopted pursuant to this Regulation.

(19) Unrestricted access to vehicle repair information, via a standardised format which can be used to retrieve the technical information, and effective competition on the market for vehicle repair and maintenance information services are necessary to improve the functioning of the internal market, particularly as regards the free movement of goods, the freedom of establishment and the freedom to provide services. A great proportion of such information is related to on-board diagnostic systems and their interaction with other vehicle systems. It is appropriate to lay down technical specifications that the websites of the manufacturers should follow, along with targeted measures to ensure reasonable access for small and medium-sized enterprises.

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(20) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers[(7)].

(21) In order to supplement this Regulation with further technical details, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of requirements on environmental and propulsion performance, on functional safety and on vehicle construction. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(22) Member States should lay down rules on penalties applicable to infringements of this Regulation and the delegated or implementing acts adopted pursuant to this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

(23) In order to be able to assess and decide whether to extend mandatory fitting of certain advanced brake systems to additional categories of motorcycles, the Commission should report to the European Parliament and to the Council on the basis, inter alia, of road accident data provided by Member States.

(24) While nothing in this Regulation prevents Member States from continuing to apply their respective individual approval systems, the Commission should report to the European Parliament and the Council on the operation of these national systems, based on information provided by Member States, in order to reconsider the question of whether to submit a legislative proposal for the harmonisation of the individual approval system at Union level.

(25) In the context of the revision of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles[(8)], the delineation between this Regulation and Directive 2007/46/EC should be considered in the light of the experience gained by Member States in the application of this Regulation, in particular in order to ensure fair competition between vehicle categories.

(26) In the interest of clarity, predictability, rationality and simplification and in order to reduce the burden for vehicle manufacturers, this Regulation should contain only a limited number of implementation stages for the introduction of new emission levels and safety requirements. Industry should be allowed sufficient time to adapt to the new provisions laid down in this Regulation and to the technical specifications and administrative provisions set out in the delegated and implementing acts adopted