Commission Regulation (EU) No 678/2011 of 14 July 2011 replacing Annex II and amending Annexes IV, IX and XI to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (Text with EEA relevance)

COMMISSION REGULATION (EU) No 678/2011

of 14 July 2011

replacing Annex II and amending Annexes IV, IX and XI to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 (Framework Directive)[(1)], and in particular Article 39(2) and (3) thereof,

Whereas:

(1) Directive 2007/46/EC establishes a harmonised framework containing the administrative provisions and general technical requirements for all new vehicles, systems, components and separate technical units. In particular it includes the specific definitions concerning vehicles that are necessary for the proper functioning of the European type-approval system.

(2) One of the objectives of Directive 2007/46/EC is to extend the European vehicle type-approval system to all vehicle categories. Annex II to Directive 2007/46/EC that includes the necessary specific definitions has to be redesigned in order to take technical progress into account. It is therefore necessary to amend existing definitions or to establish new definitions.

(3) Experience shows that the current criteria for determining whether a new model of vehicle is to be considered a new type are too vague. This lack of certainty can delay the implementation of new requirements laid down in EU legislation regarding new vehicle types. Moreover, experience shows that it is possible to circumvent the EU small series legislation by dividing a vehicle type into several sub-types under different type-approvals. Consequently, the number of new vehicles that may be put into service in the European Union under the small series regime can exceed what is permissible. It is therefore important to specify which vehicle technical features are to be used as criteria in determining what constitutes a new type.

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(4) In accordance with the principles enshrined in the communications from the Commission entitled Action plan 'Simplifying and improving the regulatory environment'[(2)] and Action programme for 'Reducing administrative burdens in the European Union'[(3)], it is appropriate to reconsider the criteria to be used for the definition of the variants and versions within a vehicle type with a view to reducing the administrative burden placed on vehicle manufacturers. This would result, moreover, in making the type-approval process more transparent for the competent authorities of the Member States.

(5) Given the trends for globalisation on the automotive sector, the work of the World Forum for Harmonisation of Vehicle Regulations – 'the Working Party 29 (WP.29)' - is increasingly significant. As it is essential in order to meet the recommendations of the CARS 21 High Level Group to incorporate Regulations of the Economic Commission for Europe of the United Nations (UNECE) into EU law or even to replace EU Directives or Regulations by UNECE Regulations as well as to incorporate global technical Regulations into EU law, the consistency of the legislation of the European Union with the UNECE Regulations should be ensured.

(6) Given the harmonisation work in progress in the World Forum for Harmonisation of Vehicle Regulations, it is essential to take account of the most recent developments laid down in Resolution R.E. 3 on Classification and definition of power-driven vehicles and trailers in the framework of the Agreement of the UNECE concerning the adoption of uniform prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (Revised 1958 Agreement) as well as the Special Resolution S.R. 1 concerning the common definitions of vehicle categories, masses and dimensions in the framework of the UNECE Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel or 1998 Agreement'). Only the inclusion of those developments in the Framework Directive can ensure the proper functioning of the European type-approval system. It is therefore necessary to introduce new criteria for determining whether a vehicle type should be categorised in an 'M' category or an 'N' category.

(7) In accordance with Article 8 of Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance for new passenger cars as part of the Community's integrated approach to reduce CO_2 emissions from light-duty vehicles[(4)], Member States are required to keep a register containing data relating to inter alia the type, variant and version of each particular vehicle with regard to its specific emissions of CO_2 for each new vehicles registered in its territory. It is essential to specify the criteria in accordance with which a light-duty vehicle has to be type-approved as M_1 or as N_1 vehicle. These criteria should be objective and constitute guidance for vehicle manufacturers as well as for type-approval and registration authorities. In accordance with Article 13 (4) of Regulation (EC) No 443/2009, the presence of innovative technologies fostering further CO_2 emission reduction must be identified. This should be achieved by means of a 'code' assigned

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to the vehicle by the manufacturer so that each type/variant/version corresponds to a unique set of innovative technologies. Identification of those innovative technologies should thus be possible from the definition of the type-variant-version. It is therefore appropriate to add the corresponding entry into Annex II to Directive 2007/46/EC.

(8) As the type of bodywork has to be specified in the certificate of conformity, which is intended to facilitate the registration of new vehicles in the Member States, the use of harmonised codes for each kind of bodywork should constitute a simplification in the registration process. A list of appropriate codes should be assigned to the kinds of bodywork in order to allow the data processing to be automated.

(9) As trailers designed especially for abnormal load transport cannot meet all the provisions of the regulatory acts listed in Annex IV to Directive 2007/46/EC that are required to be complied with for the purpose of European type-approval, it is appropriate to include those trailers in the category of special purposes vehicles given their technical features. For the purposes of type-approval a simplified set of rules should be laid down in order to make their type-approval at European level possible. Consequently it is necessary to add a new Appendix to Annex XI to Directive 2007/46/EC.

(10) New technical developments are currently in progress in order to cope with the demand for new solutions in the transport of goods. It is therefore necessary to include new definitions in the framework legislation in order to permit subsequently appropriate technical rules to be laid down in the relevant regulatory acts listed in Annex IV or XI to Directive 2007/46/EC. It is important to make clear that no EC type-approval should be granted for such vehicles until the type-approval legislation is amended for such purposes.

(11) An error occurred in the adoption of Commission Directive 2010/19/EU of 9 March 2010 amending, for the purposes of adaptation to technical progress in the field of spray-suppression systems of certain categories of motor vehicles and their trailers, Council Directive 91/226/EEC, and Directive 2007/46/EC of the European Parliament and of the Council[(5)] in so far as Annexes IV and XI to Directive 2007/46/EC were also amended by that Directive. Those annexes had previously been replaced by Commission Regulation (EC) No 1060/2008 of 7 October 2008 replacing Annexes I, III, IV, VI, VII, XI, and XV to Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)[(6)]. In the interest of legal certainty, any partial amendment to those annexes should henceforth only be introduced by a Regulation. As the corresponding Article 2 of Directive 2010/19/EU has been deleted by Commission Decision 2011/415/EU of 14 July 2011 correcting Directive 2010/19/EU amending, for the purposes of adaptation to technical progress in the field of spray-suppression systems of certain categories of motor vehicles and their trailers, Council Directive 91/226/EEC, and Directive 2007/46/EC of the European Parliament and of the Council as regards the amendment of the annexes to Directive 2007/46/EC[(7)] in order to remedy

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that error, it is appropriate to effectuate the amendments previously contained in that Article by way of this Regulation.

(12) It is appropriate with a view to ensuring the proper operation of the type-approval system to update the annexes to Directive 2007/46/EC in order to adapt them to the development of scientific and technical knowledge.

(13) It is also appropriate to update the annexes to Directive 2007/46/EC in order to lay down technical requirements for special purpose vehicles to be type-approved.

(14) Since the provisions of those annexes are sufficiently detailed and need no further transposition measures by Member States, it is therefore appropriate to replace Annex II and amend Annexes IV, IX and XI by means of a Regulation in accordance with Article 39 (8) of Directive 2007/46/EC.

(15) Annex II should be replaced and Annexes IV, IX and XI should be amended accordingly.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Technical Committee – Motor Vehicles,

HAS ADOPTED THIS REGULATION:

Article 1

Directive 2007/46/EC shall be amended as follows:

(1) Annex II is replaced by the text set out in Annex I to this Regulation;

(2) Annex IV is amended as set out in Annex II to this Regulation;

(3) Annex IX is amended as set out in Annex III to this Regulation;

(4) Annex XI is amended as set out in Annex IV to this Regulation.

Article 2

This Regulation shall not invalidate any vehicle type-approval granted before 29 October 2012 nor prevent extension of such approvals.

Article 3

1 This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply to new vehicle types for which approval will be granted on and after 29 October 2012.

However, the requirements set out in Annex II and in points 1 and 2 of Annex IV shall apply from 9 April 2011.

2 By way of derogation from paragraph 1 second subparagraph manufacturers may as from 4 August 2011 apply any provision of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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Done at Brussels, 14 July 2011.

For the Commission

The President

José Manuel BARROSO