# Regulation (EU) 2019/26 of the European Parliament and of the Council of 8 January 2019 complementing Union type-approval legislation with regard to the withdrawal of the United Kingdom from the Union (Text with EEA relevance)

## REGULATION (EU) 2019/26 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 8 January 2019

complementing Union type-approval legislation with regard to the withdrawal of the United Kingdom from the Union

(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) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). The Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(2) The withdrawal agreement as agreed between the negotiators contains arrangements allowing for the application of provisions of Union law to and in the United Kingdom beyond the date that the Treaties cease to apply to and in the United Kingdom. If that agreement enters into force, the Union type-approval legislation will apply to and in the United Kingdom during the transition period in accordance with that agreement and will cease to apply at the end of that period.

(3) A comprehensive Union type-approval legislative framework was established by Directive 2007/46/EC of the European Parliament and of the Council[(3)], Regulation (EU) No 167/2013 of the European Parliament and of the Council[(4)], Regulation (EU) No 168/2013 of the European Parliament and of the Council[(5)] and Regulation (EU) 2016/1628 of the European Parliament and of the Council[(6)].

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(4) Those acts leave to manufacturers the choice of the type-approval authority from which to obtain a type-approval that allows them to place on the Union market vehicles, systems, components and separate technical units.

(5) The withdrawal of the United Kingdom from the Union would, in the absence of any special provisions, have the effect that EC type-approvals and EU type-approvals previously granted by the type-approval authority of the United Kingdom ('UK type-approval authority'), in accordance with regulatory acts of the Union, could no longer ensure access to the Union market. Such type-approvals are also held by manufacturers established within the Member States other than the United Kingdom. While vehicles, systems, components and separate technical units type-approved by the United Kingdom, in accordance with regulatory acts of the Union can be placed on the Union market until Union type-approval legislation ceases to apply to and in the United Kingdom, it is necessary to establish special provisions for the purposes of facilitating the placing on the Union market of those vehicles, systems, components and separate technical units after that date.

(6) Currently, the Union type-approval legislation does not provide for the possibility to re-approve types already approved elsewhere in the Union. However, manufacturers should be able to continue the production of vehicles, systems, components and separate technical units previously based on type-approvals granted by the UK type-approval authority, and to continue to place such vehicles, systems, components and separate technical units on the Union market. It is therefore necessary to allow manufacturers to obtain new type-approvals from type-approval authorities of Member States other than the United Kingdom.

(7) This Regulation should also ensure that manufacturers continue to have the greatest possible freedom to choose the new Union type-approval authority. In particular, that choice by the manufacturer should not be dependent on the consent of the UK type-approval authority or the existence of any arrangements between the UK type-approval authority and the new Union type-approval authority.

(8) In order to provide the necessary legal certainty for all stakeholders concerned and to ensure a level playing field for manufacturers, it is necessary to lay down, in a transparent manner, equal conditions applicable in all Member States.

(9) In order to enable the continued production and placing on the market of vehicles, systems, components and separate technical units, the requirements with which their types are to comply in order to be approved by the type-approval authority of a Member State other than the United Kingdom should be those applicable to the placing on the market of new vehicles, systems, components and separate technical units and not those applicable to new types.

(10) The requirements for new vehicles, systems, components and separate technical units are likewise applicable to manufacturers holding type-approvals granted by the Member States other than the United Kingdom. Setting the same requirements for the approval of types under this Regulation as for the placing on the market of new vehicles, systems, components and separate technical units thus aims to ensure equal treatment

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of manufacturers affected by the withdrawal of the United Kingdom and those holding type-approvals granted by Member States other than the United Kingdom.

(11) Nothing in this Regulation should prevent the vehicle manufacturer from applying on a voluntary basis for a Union approval of a vehicle type previously approved in the United Kingdom, on the basis of certain requirements applicable to new types of systems, components or separate technical units, where the type of vehicle remains otherwise identical to the one approved in the United Kingdom.

(12) Approvals sought for entirely new types of vehicles, systems, components or separate technical units should not fall within the scope of this Regulation.

(13) It should be possible for type-approvals granted on the basis of this Regulation to be based on test reports already presented for the purposes of obtaining the type-approvals in the United Kingdom, where the requirements that form the basis of such test reports have not changed. In order to allow for such continued use of test reports issued by the technical service notified by the United Kingdom, this Regulation should provide for an exemption from the requirement that such technical service must be designated by the authority granting the type-approval and notified by the Member State to the Commission. In order to also cover the time when Union type-approval legislation has ceased to apply to and in the United Kingdom, this Regulation should also provide for an exemption from the specific requirements concerning the designation and notification of technical services of third countries.

(14) At the same time, since Union type-approval authorities are to be fully responsible for the new Union type-approvals they grant, they should have the discretion to require new tests to be carried out for any element of the type-approval as they see fit.

(15) Insofar as this Regulation does not provide otherwise, the general rules on EC type-approval and EU type-approval should continue to apply.

(16) It should be taken into account that the role attributed to type-approval authorities does not end with the production or placing on the market of a vehicle, system, component or a separate technical unit, but extends over several years after the placing on the market of those vehicles, systems, components and separate technical units. This applies in particular with regard to in-service conformity obligations for vehicles falling under Directive 2007/46/EC and with regard to repair and maintenance information obligations and potential recalls for vehicles, systems, components and separate technical units falling under Directive 2007/46/EC, Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 or Regulation (EU) 2016/1628. It is therefore necessary that the authority granting the Union type-approval takes over those obligations also with respect to vehicles, systems, components and separate technical units based on the same type and already placed on the Union market on the basis of the UK type-approval to ensure that there is a responsible type-approval authority.

(17) When manufacturers make use of the procedures set out in this Regulation, their UK type-approval may become invalid before Union type-approval legislation ceases to apply to and in the United Kingdom due to the granting of the Union type-approval for the same type. Since manufacturers should not be disadvantaged for having made

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use of this Regulation, the stock of compliant vehicles, systems, components and separate technical units produced on the basis of a valid UK type-approval should be allowed to be placed on the market, registered and entered into service, once the manufacturers have obtained a new Union type-approval, for as long as Union type-approval legislation continues to apply to and in the United Kingdom, provided that those vehicles, systems, components and separate technical units continue to fulfil the general requirements of the acts listed in Article 1. Since the moments of placing on the market, of registration, and of entry into service can differ, the moment when the first of those steps has been undertaken should be used to determine the time limits set out in this Regulation.

(18) It is also necessary that a Union type-approval authority takes over certain obligations with respect to vehicles, systems, components and separate technical units that were placed on the Union market on the basis of UK type-approvals that are either no longer valid pursuant to Article 17 of Directive 2007/46/EC, Article 32 of Regulation (EU) No 167/2013, Article 37 of Regulation (EU) No 168/2013 or Article 30 of Regulation (EU) 2016/1628 or for which no Union type-approval is sought. To ensure that there is a responsible Union type-approval authority, manufacturers should be required to request the Union type-approval authority that is to approve types previously approved in the United Kingdom to assume obligations regarding recalls, repair and maintenance information and in-service conformity checks with respect to their vehicles, systems, components and separate technical unit based on other types and already placed on the Union market. To limit the extent of the obligations taken over by the Union type-approval authority, those obligations should only concern vehicles, systems, components and separate technical units based on UK type-approvals that were granted after 1 January 2008.

(19) Decisions of national authorities taken in accordance with Article 27(3) of Directive 2007/46/EC, Article 39(3) of Regulation (EU) No 167/2013 or Article 44(3) of Regulation (EU) No 168/2013 while Union type-approval legislation still applies to and in the United Kingdom, permitting the making available on the market, registration, sale or entry into service of end-of series vehicles conforming to a type whose UK type-approval has become invalid before the day Union type-approval legislation ceases to apply to and in the United Kingdom should remain applicable.

(20) The exemptions and transitional provisions applicable to engines or vehicles and non-road mobile machinery in which such engines are installed set out in Article 10(7) of Directive 97/68/EC, Article 34(7) and (8) or Article 58(5) to (11) of Regulation (EU) 2016/1628, and in acts adopted on the basis of Article 19(6), Article 20(8), Article 28(6) and Article 53(12) of Regulation (EU) No 167/2013 allowing the placing on the market of such engines, vehicles and non-road mobile machinery without the requirement of a valid type-approval, should continue to apply.

(21) Since the objective of this Regulation, namely to complement Directive 2007/46/EC, Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 and Regulation (EU) 2016/1628 with special rules relating to the withdrawal of the United Kingdom from the Union, cannot be sufficiently achieved by the Member States but can rather, by

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reason of its 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 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.

(22) In order to allow manufacturers to take the necessary measures to prepare without delay for the withdrawal of the United Kingdom with regard to Union type-approval legislation, this Regulation should enter into force on the third day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Subject matter**

This Regulation complements Directive 2007/46/EC, Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 and Regulation (EU) 2016/1628 by establishing special provisions for the EU type-approval and the placing on the market of vehicles, systems, components and separate technical units which have been type-approved by the type-approval authority of the United Kingdom ('UK type-approval authority') while the Union type-approval legislation referred to in Article 2(1) of this Regulation still applies to and in the United Kingdom.

*Article 2*

**Scope**

1 This Regulation shall apply to vehicles, systems, components and separate technical units which fall within the scope of Directive 2007/46/EC, Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 or Regulation (EU) 2016/1628 and their types which have been approved by the UK type-approval authority on the basis of those acts or any regulatory act of the Union listed in Annex IV to Directive 2007/46/EC or any regulatory act repealed by those regulatory acts of the Union.

2 References to separate technical units under this Regulation shall be understood as covering references to engines under Regulation (EU) 2016/1628.

*Article 3*

**Definitions**

For the purposes of this Regulation, the following definitions apply:

(1) 'Union type-approval authority' means a type-approval authority of a Member State other than the United Kingdom;

(2) 'UK type-approval' means an EC type-approval or EU type-approval granted by the UK type-approval authority;

(3) 'Union type-approval' means an EU type-approval granted by a Union type-approval authority in accordance with this Regulation.