Commission Delegated Regulation (EU) No 44/2014 of 21 November 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the vehicle construction and general requirements for the approval of two- or three-wheel vehicles and quadricycles (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) No 44/2014

of 21 November 2013

supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the vehicle construction and general requirements for the approval of two- or three-wheel vehicles and quadricycles

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)], and in particular Articles 18(3), 20(2), 21(5), 25(8), 33(6) and 57(12), and Article 65 thereto,

Whereas:

(1) The internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured. To that end, comprehensive EU type-approval and a strengthened market surveillance system for L-category vehicles and its systems, components and separate technical units, as defined by Regulation (EU) No 168/2013, apply.

(2) The term ‘L-category vehicles’ covers a wide range of light vehicle types with two, three or four wheels, e.g. powered cycles, two- and three-wheel mopeds, two- and three-wheel motorcycles, motorcycles with side-cars and four-wheel vehicles (quadricycles) such as on-road quads, all-terrain vehicles and quadrimobiles.

(3) By Council Decision 97/836/EC[(2)], the Union acceded to 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’).

(4) Manufacturers apply for type approval for L category vehicles, their systems, components or separate technical units in accordance with Regulation (EU) No 168/2013. In the Union legislation most requirements on vehicle parts are taken over from the corresponding UNECE regulations. UNECE regulations are constantly amended in line with technological progress and the respective Union regulations have to be regularly updated accordingly. In order to avoid this duplication, the CARS 21

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 44/2014. (See end of Document for details)*

High Level Group recommended the replacement of several Union directives by way of the incorporation and compulsory application of the corresponding UNECE regulations in Union law, referred to in Annex I.

(5) The possibility of applying UNECE regulations by virtue of Union legislation that provides for the incorporation of those UNECE regulations for the purpose of EU vehicle type-approval is provided for in Regulation (EU) No 168/2013. Under that Regulation, type-approval in accordance with UNECE regulations which apply on a compulsory basis is regarded as EU type-approval in accordance with that Regulation and its delegated and implementing acts.

(6) UNECE regulation No 10 on electromagnetic compatibility (EMC) should be made obligatory and replace Chapter 8 of Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles[(3)] in order for vehicles to comply with only one set of EMC requirements, which are world-wide accepted by contracting parties to the 1958 Agreement. UNECE regulation No 62 on protection against unauthorised use should be made obligatory and replace Council Directive 93/33/EEC of 14 June 1993 on protective devices intended to prevent the unauthorized use of two- or three-wheel motor vehicles[(4)] with the same objective of mutual recognition between contracting parties to the 1958 Agreement.

(7) The compulsory application of UNECE regulations helps avoiding duplication not only of technical requirements but also of certification and administrative procedures. In addition, type-approval that is directly based on internationally agreed standards could improve market access in third countries, in particular those which are contracting parties to the Revised 1958 Agreement, and thus enhance the Union industry's competitiveness.

(8) Pursuant to the provisions of Regulation (EU) No 168/2013, the L-category vehicles, systems, components and separate technical units covered by that Regulation may not be placed or made available on the market or enter into service in the Member States unless they comply with the provisions of that Regulation.

(9) Functional safety or environmental performance requirements call for restrictions on tampering with certain types of L-category vehicles. If they are not to prove an obstacle to owner servicing and maintenance, such restrictions should be strictly limited to tampering which significantly modifies the vehicle's performance and pollutant emissions, noise emissions and vehicle functional safety in a harmful way. As harmful tampering affects both items, detailed requirements regarding powertrain and noise abatement tampering prevention requirements should be laid down in this delegated act on vehicle construction.

(10) Subcategories L6e-A (light on-road quads), L7e-A (heavy on-road quads) and L7e-B (heavy terrain quads) are vehicles with a high centre of gravity in comparison to their width and wheelbase. They have a wide range of passenger/load carrying configurations and they may be operated in off-road conditions. Multiple lateral static stability criteria should be established and incorporated in Annex XI regarding masses and dimensions because of the importance of vehicle rollover stability in the off-road environment. Both

tilt-table angle (TTA) and lateral-stability coefficient (Kst) are used as static stability indicators. Kst is a three-dimensional static measurement and serves as an indicator of level-terrain vehicle stability, whereas the TTA test simulates a vehicle operating on a side slope and tests the static longitudinal stability. The vehicle state for these static tests ranges from the operational but otherwise unloaded L6e-A, L7e-A and L7e-B vehicles to both loaded and unloaded conditions. In addition, the vehicle should be constructed by designing the masses and dimensions of the vehicle so as to respect minimum pitch stability. Associated testing should be is representative of a fully loaded vehicle directly ascending and descending a steep slope.

(11) On-board diagnostics ('OBD') is essential for effective and efficient repair and maintenance of vehicles. Accurate diagnostics allows the repairer to identify fast which smallest exchangeable unit has to be repaired or replaced. In order to address the rapid technical developments in the area of propulsion control systems it is appropriate to review the list of devices monitored for electric circuit malfunctions in 2017. By 1 January 2018 it should be established whether identified if additional devices and malfunctions should be added to the list set out in Appendix 2 to Annex XII to provide sufficient time to the Member States, vehicle manufacturers, their suppliers and the repair industry to adapt before the entry into force of OBD stage II.

(12) OBD stage I mandatory as of 2016 should not oblige manufacturers to change fuelling hardware and should not impose fitting of an electronic carburettor or electronic fuel injection, providing the vehicle complies with the requirements laid down in Regulation (EU) No 168/2013 and its delegated acts. Compliance with the OBD stage I requirements requires that if fuel delivery, spark delivery or intake air are electronically controlled, the applicable input and/or output circuits need to be monitored, limited to the items listed in Appendix 2 to Annex XII. If for example a motorcycle would be equipped with a mechanically actuated carburettor, but at the same time with electronically controlled spark delivery, the primary ignition coil circuits need to be monitored. In the case of a mechanical carburettor fitted with a throttle position sensor providing a circuit signal as input to the PCU/ECU to determine the engine load, which on its turn would be used to electronically control spark delivery, requires monitoring of that throttle position sensor circuit. Also other sensors and/or actuator circuits captured by points 3.3.5 and 3.3.6 of Annex XII will need to be monitored although not directly used to control fuel delivery, spark delivery or intake air. An example of such a case would be the wheel speed sensor circuits in case the vehicle speed would be calculated in the PCU/ECU from the wheel rotation speeds and which would subsequently be used to control the environmental performance of the motorcycle or would be used to trigger a torque limiting default mode.

(13) 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 ('RMI') services are necessary to improve the functioning of the internal market, particularly as regards the free movement of goods, freedom of establishment and freedom to provide services. A great proportion of such information relates to on-board diagnostic (OBD) systems and their interaction with other vehicle systems. It is appropriate to lay down technical

specifications that manufacturers' websites should follow, along with targeted measures to ensure reasonable access for small and medium-sized enterprises (SMEs). Common standards agreed with the involvement of stakeholders can facilitate the exchange of information between manufacturers and service providers. It is therefore appropriate that manufacturers use the technical specifications of the OASIS format and that the Commission will request in due course the European Committee for Standardisation ('CEN') and the International Organization for Standardization ('ISO') to develop this format into a standard with a view to replacing the OASIS format.

(14) In order to further pursue the harmonised approach for access to RMI in all sectors of type-approval legislation taken in Chapter XV of Regulation (EU) No 168/2013 the provisions of which follow Regulations (EC) No 595/2009[(5)] and (EC) No 715/2007[(6)] of the European Parliament and of the Council, it is appropriate to carry over to this Regulation the provisions on access to repair and maintenance information set out in the implementing regulation to Regulations (EC) No 595/2009 and (EC) No 715/2007, namely Commission Regulation (EU) No 582/2011[(7)] and adapt them to the specificities of the L-category vehicle sector.

(15) In particular, it is appropriate to adopt specific procedures for access to vehicle repair and maintenance information in the case of multi-stage type-approval. It is also appropriate to adopt specific requirements and procedures for access to vehicle repair and maintenance information in the case of customer adaptations and small volume production.

(16) In order to exclude that application of the provisions on access to repair and maintenance information imposes too much burden upon vehicle manufacturers in the short term with respect to certain systems which are carried over from old to new vehicle types, it is appropriate to introduce an exhaustive list of certain limited derogations from the general provisions on access to vehicle OBD and vehicle repair and maintenance information as exhaustively listed in this Regulation.

(17) When examining the major policy areas which affect the competitiveness of the European automotive industry, the 'CARS 21 High Level Group' agreed on a number of recommendations aimed at enhancing the industry's global competitiveness and employment while sustaining further progress in safety and environmental performance, which was published in a report by the Commission in 2006 entitled 'CARS 21: A Competitive Automotive Regulatory System for the 21st century'. In the area of simplification, the High Level Group proposed, inter alia, two legislative measures, introducing the possibility of manufacturers conducting approval tests themselves, i.e. to be designated as a technical service ('self-testing'), and the possibility of using computer simulations instead of physical tests ('virtual testing'). This Regulation should therefore set out the detailed conditions with respect to virtual testing and self-testing as set out in Articles 32, 64 and 65 of Regulation (EU) No 168/2013.

(18) Computer-aided techniques, in particular Computer- Aided-Design, are used widely throughout the engineering process from conceptual design and layout of components and equipment, through strength and dynamic analysis of assemblies to definition of

manufacturing methods. Available software makes possible the use of virtual testing methods based on such techniques, the introduction of which was identified by the 'CARS 21 High Level Group' as a means of reducing manufacturers' costs by no longer obliging them to build prototypes for the purposes of type-approval. Manufacturers not wishing to take advantage of virtual testing methods should be allowed to continue to use the existing physical test methods.

(19) Type-approval tests are conducted by technical services duly notified to the Commission by the type-approval authorities of the Member States after their skills and competence have been assessed under the relevant international standards. Those standards contain the necessary requirements to allow a manufacturer or a subcontracting party acting on his behalf to be designated as a technical service by the approval authority within the meaning of Directive 2002/24/EC of the European Parliament and of the Council[8] (the Framework Directive). However, in order to prevent potential conflicts of interest, the responsibilities of the manufacturers should be specified. In addition, the conditions under which a manufacturer may subcontract tests should be clarified.

(20) One of the main features of the EU type-approval system is the high level of confidence which should exist between the approval authority and the technical services it has appointed. It is therefore important to ensure that the information exchange between technical services and approval authority is marked by transparency and clarity.

(21) A virtual testing method should provide for the same level of confidence in the results as a physical test. Therefore, it is appropriate to lay down relevant conditions to ensure that the manufacturer acting as in-house technical service, a subcontracting party acting on behalf of the manufacturer or the technical service can properly validate the mathematical models used.

(22) Checks on the conformity of vehicles, components or separate technical units throughout the production process are an essential part of the EU type-approval process. These conformity checks are carried out through conducting physical tests on vehicles, components or separate technical units taken from the production line. Virtual methods should not be permissible for the purposes of conformity of production testing, even if they have been used for type-approval purposes.

(23) This Regulation should apply from the date of application of Regulation (EU) No 168/2013,

HAS ADOPTED THIS REGULATION: