



STATUTORY INSTRUMENTS.

S.I. No. 321 of 2010



EUROPEAN COMMUNITIES (AGRICULTURAL OR FORESTRY
TRACTORS TYPE APPROVAL) REGULATIONS 2010

(Prn. A10/0950)

EUROPEAN COMMUNITIES (AGRICULTURAL OR FORESTRY TRACTORS TYPE APPROVAL) REGULATIONS 2010

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003¹ as amended by Commission Directive 2005/13/EC of 21 February 2005², Commission Directive 2005/67/EC of 18 October 2005³, Council Directive 2006/96/EC of 20 November 2006⁴ and Commission Directive 2010/22/EU of 15 March 2010⁵, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 2010.

2. (1) In these Regulations—

“Directive” means Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 as amended by Commission Directive 2005/13/EC of 21 February 2005, Commission Directive 2005/67/EC of 18 October 2005, Council Directive 2006/96/EC of 20 November 2006 and Commission Directive 2010/22/EU of 15 March 2010;

“Minister” means Minister for Agriculture, Fisheries and Food;

“separate directives” means the directives listed in Annex II, Chapter B of the Directive.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, in these Regulations, the same meaning as in the Directive.

3. (1) These Regulations apply to a vehicle and to a component of such a vehicle, having a design speed of not less than 6 km/hr.

(2) These Regulations do not apply to—

(a) approval of single vehicles,

(b) machinery that has been specially designed for forestry use, such as skidders and forwarders as defined in standard ISO 6814:2000,

¹O.J. L171, 09.7.2003 p. 1

²O.J. L055, 01.3.2005 p. 35

³O.J. L273, 19.10.2005 p. 17

⁴O.J. L363, 20.12.2006 p. 81

⁵O.J. L091, 10.4.2010 p. 1

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 2nd July, 2010.

- (c) forestry machinery based on chassis for earthmoving equipment as defined in standard ISO 6165:2001,
- (d) interchangeable machinery that is fully raised from the ground when the vehicle to which it is attached is in use on a road,
- (e) vehicles intended for use by the defence forces, An Garda Síochána and the fire fighting services.

4. (1) A manufacturer of a vehicle or a component shall apply for an EC type-approval or for a multi stage EC type-approval for the vehicle or component in writing to the Minister.

(2) The manufacturer shall supply with the application an information folder containing the information laid down in Article 3 of the Directive and in accordance with the separate directives if so required.

(3) The manufacturer shall not make a similar application in another Member State in respect of the same type of vehicle or component.

5. (1) Where the Minister is satisfied that an application made under Regulation 4 meets the requirements set out in the Directive and the separate directives if so required, the Minister may grant—

- (a) the EC type-approval to the vehicle type,
- (b) the multi-stage EC type-approval to incomplete or completed base vehicles,
- (c) system, component or separate technical unit EC type-approval to types of systems, components or separate technical units, or,
- (d) an exemption, within the provisions set out in the European Directive, as appropriate.

(2) Where an approval is granted under paragraph (1) the Minister may issue-

- (a) the appropriate type-approval certificate as set out in the Directive, and
- (b) the appropriate approval mark as set out in the separate directives.

(3) The Minister may at any time withdraw an approval granted under paragraph (1) and a certificate or approval mark granted under paragraph (2).

(4) The manufacturer shall notify the Minister in writing of any alterations of the relevant aspects of design, construction, equipment or marking (other than alterations permitted by the type-approval requirements).

(5) Where the manufacturer proposes to cease manufacturing the vehicle or component for which an approval has been granted, he or she shall notify the

Minister in writing of that fact, indicating the relevant date and, where appropriate, the serial number of the last such vehicle or component manufactured by him or her.

6. Where the Minister is satisfied that an application made under Regulation 4 does not meet the requirements set out in the Directive or in the separate directives or there is insufficient information the Minister may refuse the application.

7. (1) The manufacturer of a vehicle in respect of which a type-approval certificate has been issued and is in force shall, in respect of each vehicle manufactured in conformity with the approved vehicle type, complete and issue a certificate of conformity.

(2) The holder of an EC type-approval certificate for a system, component or separate technical unit, shall affix to each component or unit manufactured in conformity with the approved type the trade name or mark, the type and, if the separate directives so provide, the EC type-approval mark or number.

(3) The holder of an EC type-approval certificate for a vehicle shall not sell or supply a type approved new vehicle unless it is accompanied by a valid certificate of conformity.

8. A person shall not use on a component a mark which would be liable to cause confusion between a component in respect of which a type-approval mark has been issued and is in force and another component.

9. (1) The Minister may approve a mark referred to in these Regulations as an EC type-approval mark in any case where the separate directives so provide.

(2) Where the Minister is satisfied that there has been a breach of a condition of a type-approval mark he or she may cancel the type-approval mark.

10. (1) Where the Minister—

(a) is satisfied after examination of at least two vehicles of a type that the Minister has granted a type-approval certificate and—

(i) a certificate of conformity is in force, or

(ii) bear a type-approval mark

and each such vehicle or component has not been manufactured so as to conform with the type-approval, or

(b) is notified by the competent authority of another Member State that, in relation to a specified vehicle or component, the authority, after an examination of the kind mentioned in subparagraph (a), is satisfied that the vehicle or component has not been manufactured in conformity with the type-approval,

the Minister may give notice of that fact to the manufacturer.

- (2) A notice under this Regulation shall specify—
- (a) in what respect the vehicles or components have been found not to conform,
 - (b) the steps that should be taken by the manufacturer to ensure that vehicles or components of the type in question conform and the period within which the Minister requires those steps to be taken, and
 - (c) that unless those steps are taken within that period the type-approval certificate in question may be cancelled.

(3) Where after the expiration of a period specified under paragraph (2)(b) the Minister is not satisfied that all the steps so specified have been taken, the Minister may cancel the type-approval certificate.

11. (1) If the Minister establishes that vehicles, systems, components or separate technical units of a particular type pose a serious risk to road safety or occupational safety although accompanied by a valid certificate of conformity or are properly marked, the Minister may, for a maximum period of six months, prohibit the sale or entry into service in the State of such vehicles, systems, components or separate technical units.

(2) A person shall not deviate from an EC type-approval without prior authorisation by the Minister and in accordance with the provision of Article 5 of the Directive.

12. (1) Where the Minister decides to cancel a type-approval certificate or type-approval mark the Minister shall give notice of the decision to the person to whom the certificate or mark was issued.

- (2) A notice under this Regulation shall—
- (a) specify the date of cancellation of the certificate or mark,
 - (b) notify the person of his or her right of appeal,
 - (c) specify the grounds for the decision to cancel.

13. A person who—

- (a) has an application refused under Regulation 6, or
- (b) is the subject of a notice under Regulation 12,

may apply to the Minister for a review of the decision under Regulation 6 or 12 as appropriate in writing no later than 14 days from the date of the decision, stating the grounds on which the appeal is being made.

14. The Minister may designate testing stations for the testing of vehicles, components or systems for type-approval under these Regulations and the cost of such testing, as determined by a testing station so designated, shall be borne by the applicant for type-approval.

15. The manufacturer of a vehicle in respect of which a type-approval certificate has been issued and is in force shall keep a record of every certificate of conformity issued by him or her including a record of the serial number of the certificate and of the manufacturer's identification number assigned to the vehicle.

16. The European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 (S.I. No. 424 of 2009) as amended by the European Communities (Marketing Standards) (Crops and Oils) Regulations 2010 (S.I. No. 153 of 2010) are applied to these Regulations.

17. (1) A person who contravenes Regulation 4, 5(4), 5(5), 7, 8, 11(2), 15 or the Directive or separate directives commits an offence and is liable on summary conviction to a fine not exceeding €3,000.

(2) Where an offence under these Regulations is proved to have been committed with the consent or approval of a person who is a director, member of the committee of management or other controlling authority of a body corporate or a manager, secretary or other officer of the body corporate, or to have been facilitated by any neglect on the part of any such person, that person shall also be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly;

(3) An offence under these Regulations may be prosecuted by the Minister.

18. (1) The European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 2005 (S.I. No. 69 of 2005) and the European Communities (Agricultural or Forestry Tractor Type Approval) (Amendment) Regulations 2009 (S.I. No. 428 of 2009) are revoked.

(2) An officer appointed under Regulation 16 of the European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 2005 as an authorised officer shall continue to be an authorised officer as though appointed under the European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009.



GIVEN under my Official Seal,
24 June 2010.

BRENDAN SMITH,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations refer to type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and revokes S.I. No. 69 of 2005 and S.I. No. 428 of 2009.

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