



STATUTORY INSTRUMENTS.

S.I. No. 645 of 2017



EUROPEAN UNION (AGRICULTURAL OR FORESTRY VEHICLE
TYPE APPROVAL AND ENTRY INTO SERVICE) REGULATIONS 2017

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I, Michael Creed, Minister for Agriculture, Food and the Marine, 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 Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013¹ as amended by Commission Delegated Regulation (EU) No 1322/2014 of 19 September 2014², Commission Delegated Regulation (EU) 2015/68 of 15 October 2014³, Commission Delegated Regulation (EU) 2015/96 of 1 October 2014⁴, Commission Delegated Regulation (EU) 2015/208 of 8 December 2014⁵, Commission Implementing Regulation (EU) 2015/504 of 11 March 2015⁶, Commission Delegated Regulation (EU) 2016/1788 of 14 July 2016⁷, Commission Implementing Regulation (EU) 2016/1789 of 7 September 2016⁸, Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016⁹ and Commission Delegated Regulation (EU) 2017/686 of 1 February 2017¹⁰, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Agricultural or Forestry Vehicle Type Approval and Entry into Service) Regulations 2017.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) a person appointed under Regulation 24,
- (b) a Member of an Garda Síochána, or
- (c) an officer of the Revenue Commissioners;

“EU Regulation” means Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 as amended or supplemented by Commission Delegated Regulation (EU) No 1322/2014 of 19 September 2014,

¹O.J. No.L60 of 02.03.2013, p.1

²O.J. No.L364 of 18.12.2014, p.1

³O.J. No.L17 of 23.01.2015, p.1

⁴O.J. No.L16 of 23.01.2015, p.1

⁵O.J. No.L42 of 17.02.2015, p.1

⁶O.J. No.L85 of 28.03.2015, p.1

⁷O.J. No.L277 of 13.10.2016, p.1

⁸O.J. No.L277 of 13.10.2016, p.60

⁹O.J. No.L252 of 16.09.2016, p.53

¹⁰O.J. No.L99 of 12.04.2017, p.16

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 30th January, 2018.

Commission Delegated Regulation (EU) 2015/68 of 15 October 2014, Commission Delegated Regulation (EU) 2015/96 of 1 October 2014, Commission Delegated Regulation (EU) 2015/208 of 8 December 2014, Commission Implementing Regulation (EU) 2015/504 of 11 March 2015, Commission Delegated Regulation (EU) 2016/1788 of 14 July 2016, Commission Implementing Regulation (EU) 2016/1789 of 7 September 2016, Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 and Commission Delegated Regulation (EU) 2017/686 of 1 February 2017;

“Minister” means Minister for Agriculture, Food and the Marine;

“VIN” means vehicle identification number which is the alphanumeric code assigned to a vehicle by the manufacturer in order to ensure proper identification of every vehicle.

(2) A word or expression that is used in these Regulations and is also used in the EU Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the EU Regulation.

Scope

3. (1) These Regulations apply to agricultural and forestry vehicles listed in Article 2 (1) of the EU Regulation.

(2) These Regulations do not apply to interchangeable machinery referred to in Article 2 (2) of the EU Regulation.

Approval and Market Surveillance Authorities

4. (1) The National Standards Authority of Ireland is the approval authority for the purposes of Article 1(1) of the EU Regulation.

(2) The National Standards Authority of Ireland shall carry out its obligations under Article 6 of the EU Regulation.

(3) The National Standards Authority of Ireland shall be responsible for functions referred to in Article 3 (27) of the EU Regulation except as regards end of series vehicles.

(4) The Minister is the market surveillance authority for the purposes of Article 1(2) of the EU Regulation and shall carry out market surveillance within the State.

(5) The Minister is the national authority in relation to end-of-series vehicles for the purpose of Article 39 of the EU Regulation.

(6) The approval authority and the market surveillance authority shall transfer information for the purposes of the proper functioning of these Regulations and the EU Regulation.

End-of-Series Vehicles

5. (1) The Minister may, upon the application of a manufacturer or distributor in respect of an end-of-series vehicle, grant an exemption pursuant to Article

39 of the EU Regulation whereby the certificate of conformity that is issued for the relevant vehicle is acceptable for the purpose of making a declaration for registration. Subject to compliance with all other requirements for the registration of vehicles and their entry into service, such a vehicle may then be registered and enter into service.

(2) An application for an exemption under this regulation must be made in writing to the Minister by the manufacturer or the distributor of the vehicle and contain—

- (a) details of either or both the technical reasons and the economic reasons for the making of the application,
- (b) details of the vehicle type to which the application relates, and
- (c) the VIN of the vehicle for which the exemption is sought.

(3) An application for an exemption under this regulation submitted in accordance with the requirements of paragraph (2) and containing the details and information therein required shall, in addition, be accompanied by the certificate of type-approval which is no longer valid.

(4) An applicant for an exemption under this regulation may be required by the Minister to submit such other information or documents as shall be required to assess the application and the applicant shall comply with any such request.

General Provision

6. A person shall not sell, supply, offer for sale, register or enter into service a vehicle, component or separate technical unit to which these Regulations apply unless that vehicle, component or separate technical unit satisfies the requirements of these Regulations and the EU Regulation.

Manufacturer

7. A manufacturer shall comply with its obligations in accordance with Articles 8, 9, 16 and Chapter III of the EU Regulation.

Manufacturer's Representative

8. A manufacturer's representative shall comply with his or her obligations in accordance with Article 10 and 16 of the EU Regulation.

Importer

9. An importer shall comply with its obligations in accordance with Articles 11, 12, 15 and 16 of the EU Regulation.

Distributor

10. A distributor shall comply with its obligations in accordance with Articles 13, 14, 15 and 16 of the EU Regulation.

EU Type-Approval Procedures

11. A manufacturer shall comply with its obligations in relation to EU type-approval procedures in accordance with Chapter IV and Article 27 of Chapter V of the EU Regulation.

Amendments To EU Type-Approvals

12. A manufacturer shall comply with its obligations in relation to amendments to EU type-approvals in accordance with Chapter VI of the EU Regulation.

Validity Of EU Type-Approval

13. A manufacturer shall comply with its obligations in relation to validity of EU type-approval in accordance with Chapter VII of the EU Regulation.

Certificate Of Conformity And Markings

14. A manufacturer shall comply with its obligations in relation to certificate of conformity and markings in accordance with Chapter VIII of the EU Regulation.

Exemptions For New Technologies Or New Concepts

15. A manufacturer shall comply with its obligations in relation to exemptions for new technologies or new concepts in accordance with Chapter IX of the EU Regulation.

Vehicles Produced In Small Series

16. A manufacturer shall comply with its obligations in relation to vehicles produced in small series in accordance with Chapter X of the EU Regulation.

Making Available On The Market, Registration Or Entry Into Service

17. A person shall comply with his or her obligations in relation to making available on the market, registration or entry into service in accordance with Chapter XI of the EU Regulation.

Safeguard Clauses

18. An economic operator shall comply with his or her obligations in relation to safeguard clauses in accordance with Chapter XII of the EU Regulation.

International Regulations

19. A person shall comply with his or her obligations in relation to international Regulations in accordance with Chapter XIII of the EU Regulation.

Provision of Technical Information

20. A manufacturer shall comply with its obligations in relation to the provision of technical information in accordance with Chapter XIV of the EU Regulation.

Access to Repair and Maintenance Information

21. A manufacturer shall comply with its obligations in relation to access to repair and maintenance information in accordance with Chapter XV of the EU Regulation.

Technical Services

22. A technical service shall comply with its obligations in relation to technical services in accordance with Chapter XVI of the EU Regulation.

Infringements

23. A person shall not carry out activities listed in Article 72(2) of the EU Regulation.

Authorised Officers

24. (1) The Minister may, by instrument in writing, appoint such and so many persons or a class of persons as he or she thinks fit to be authorised officers for the purposes of some or all of the functions of an authorised officer as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (2),

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom paragraph (3) relates.

(5) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer, an officer of the Revenue Commissioner or a member of an Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

(6) The authorised officer may, at all reasonable times—

(a) carry out or cause to be carried out such tests on a vehicle as he or she thinks fit for the purposes of these Regulations,

(b) examine and take copies of any book, document or any other record in whatever form or of extracts from any such record,

(c) examine and copy books, records, data or data material (within the meaning of the Data Protection Acts 1988 to 2003), extract information from any such data and take extracts from any such material,

(d) require a person to give his or her name and address and such information or produce any book, certificate, document or other thing as the authorised officer considers necessary or expedient,

- (e) require the economic operator to give assistance, to carry out such instructions and to give such information as may be reasonably necessary, and
- (f) seize and detain any vehicle that he or she has reasonable cause to suspect may be evidence of an offence under these Regulations.

(7) A person who forges or alters or, utters knowing it to be forged or altered with intent to defraud or deceive a document or record commits an offence.

(8) A person who obstructs or impedes an authorised officer in the exercise of his or her functions under paragraph (6) commits an offence.

Offences

25. (1) A person commits an offence if he or she contravenes or fails to comply with Regulation 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 or 23 of these Regulations or the EU Regulation.

(2) (a) An offence under these Regulations may be prosecuted summarily or on indictment.

(b) A person who commits an offence under these Regulations is liable—

(i) on summary conviction, to a Class A fine or to imprisonment for a term not exceeding 6 months or both, or

(ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 12 months or both.

(3) (a) Where an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(b) Where the affairs of a body corporate are managed by its members, subparagraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) A summary offence under these Regulations may be prosecuted by the Minister.

Revocations and Savers

26. (1) The following Regulations are revoked—

(a) European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 2011 (S.I. No. 531 of 2011).

- (b) European Communities (Agricultural or Forestry Tractors Type Approval) (Amendment) Regulations 2013 (S.I. No. 407 of 2013).
- (c) European Communities (Agricultural or Forestry Tractors Type Approval) (Amendment) Regulations 2014 (S.I. No. 510 of 2014).

(2) An officer appointed under Regulation 16 of the European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 2011 (S.I. No. 531 of 2011) as an authorised officer shall continue to be an authorised officer as though appointed under these Regulations.

(3) These Regulations shall be without prejudice to the validity for the remainder of its term of any type approval issued by the Approval Authority referred to in Regulation 4, or by any approval authority of another Member State, relating to matters to which these Regulations or the EU Regulation apply, provided it was issued prior to the commencement of these Regulations and remained in force immediately before such commencement.



GIVEN under my Official Seal,
25 January 2018.

MICHAEL CREED,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

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

These Regulations give effect to European legislation on the Type Approval and Entry into Service of Agricultural and Forestry Tractors including the nomination of the National Standards Authority of Ireland as the approval authority as provided for under Article 1(1) of the Regulation.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.05



Wt. (B33212). 285. 1/18. Essentra. Gr 30-15.