

Statutory Instruments.

S.I. No. 69 of 2005

**European Communities (Agricultural or Forestry Tractors Type Approval)
Regulations 2005**

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**European Communities (Agricultural or Forestry Tractors Type Approval)
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I, Mary Coughlan, Minister for Agriculture 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 adapted by Council Directive 2004/66/EC of 26 April 2004² hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 2005 and shall come into operation on 1 July 2005.

2. (1) In these Regulations—

“component” means a device, intended to be part of a vehicle, which may be type-approved independently of a vehicle;

“EC type-approval” means a type of vehicle, system, component or separate technical unit that satisfies the relevant technical requirements of the Directive and is approved by the Minister. The EC type-approval of a system, component or separate technical unit may also be referred to as “EC component type-approval”;

“EC type approval mark” means a mark authorised by the Minister under Regulation 7 in accordance with the separate directives;

“the Directive” means Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003;

“Member State” means a Member State of the European Communities;

“Minister” means the Minister for Agriculture and Food;

“multi-stage EC type-approval” means, the procedure whereby one or more Member States certify that, depending on the state of completion, an incomplete or completed vehicle type, satisfies the relevant technical requirements of the Directive;

¹ O.J. No. L171, 9.7.2003, p. 1

² O.J. No. L168, 1.5.2004, p. 35

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

“incomplete vehicle” means any vehicle which still needs completion in at least one further stage in order to meet all the relevant requirements of this Directive:

“tractor” means any motorised, wheeled or tracked agricultural or forestry tractor having at least two axles and a maximum design speed of not less than 6 kilometres per hour, the main function of which lies in its tractive power and which has been especially designed to pull, push, carry and actuate certain interchangeable equipment designed to perform agricultural or forestry work, or to tow agricultural or forestry trailers and it may be adapted to carry a load in the context of agricultural or forestry work and/or may be equipped with passenger seats;

“trailer” means any towed agricultural or forestry trailer intended mainly to carry loads and designed to be towed by a tractor for agricultural or forestry purposes, including -

- (a) trailers of which part of the load is borne by the drawing vehicle, and
- (b) any vehicle coupled to a tractor and permanently incorporating an implement provided the ratio of the technically permissible gross mass to the unladen mass of that vehicle is equal to or greater than 3 and the vehicle has not been designed to process materials;

“manufacturer” means the natural or legal person who is responsible to the EC type-approval authority for all aspects of the type-approval process and for ensuring conformity of production, regardless of whether that person be directly involved in all stages of the construction of a vehicle, system, component or separate technical unit; the following are also considered to be manufacturers:

- (i) any natural or legal person who, for his own use, designs, has designed, manufactures or has manufactured a vehicle, system, component or separate technical unit;
- (ii) any natural or legal person who is responsible for ensuring compliance with this Directive at the time a vehicle, system, component or separate technical unit is placed on the market or enters into service;

A manufacturer’s representative is a natural or legal person established in the Community, duly appointed by the manufacturer to represent him vis-à-vis the competent authority and to act on his behalf, in the field of this Directive.

In the following where reference is made to the term “manufacturer” it must be understood as a manufacturer or his representative.

“vehicle” means any tractor, trailer or interchangeable towed machinery, whether complete, incomplete or completed intended to be used in agriculture or forestry;

- (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) In these Regulations, unless the contrary intention appears, a reference to a Regulation is to a Regulation of these Regulations and a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference appears.
3. (1) These Regulations apply to a vehicle and to a component of such a vehicle, having a design speed of not less than 6km/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,
 - (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) An application for an EC type-approval or for a multi stage EC-type approval of a vehicle or component shall be made in writing to the Minister by the manufacturer of the vehicle or component.
- (2) An application shall be accompanied by the information folder containing the information laid down in Article 3 of the Directive.
- (3) Where a manufacturer has made an application, he or she 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 he or she 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 the appropriate type approval certificate, as set out in the Directive.
- (3) The Minister may at any time withdraw an approval granted under paragraph (1) and a certificate 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 there is insufficient information he or she 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 in respect of which a type approval certificate issued by him or her is in force and in respect of each of which a certificate of conformity is in force, or after examination of at least two vehicle components which are of a type in respect of which a type approval certificate issued by him or her is in force or which bear a type approval mark, that each such vehicle or component has not been manufactured so as to conform with the relevant aspects of design, construction, equipment or marking 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 (b), is so satisfied,he or she 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 so to conform,
 - (b) the steps that should be taken by the manufacturer to ensure that vehicles or components of the type in question manufactured by

him do so 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, he or she 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, he or she 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 the EC type approval without prior authorisation by the Minister and in accordance with the provision of Article 5 of the Directive.

- (3) Where the Minister finds that vehicles, systems, components or separate technical units accompanied by a certificate of conformity or bearing an EC type-approval mark do not conform to the type he or she has approved, he or she may take the necessary measures to ensure that the vehicles, systems, components or separate technical units produced conform to the approved type.

12. (1) Where the Minister decides to cancel a type approval certificate or type approval mark he or she 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. (1) 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 under these Regulations, including a record of the serial number of the certificate and of the manufacturer's identification number assigned to the vehicle.
16. (1) The Minister may by instrument in writing appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of these Regulations.
 - (2) A warrant of appointment as an authorised officer shall be issued to every person appointed under this Regulation and when exercising a function conferred on the person as an authorised officer such person shall, if requested by a person affected, produce the warrant to that person.
 - (3) 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.
 - (4) An appointment as an authorised officer shall cease—
 - (a) where it is terminated pursuant to paragraph (3),
 - (b) where it is for a fixed period, on the expiry of that period,
 - (c) where the person appointed is an officer of the Minister, upon the person appointed ceasing to be such an officer.
 - (5) Nothing in paragraph (4) shall be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.
 - (6) The authorised officer may at all reasonable times—
 - (i) carry out or cause to be carried out such tests on a vehicle as he sees fit for the purposes of these Regulations,

- (ii) examine and take copies of any book, document or any other record in whatever form kept or of extracts from any such record,
- (iii) examine and copy books, records, data or data material (within the meaning in each case of the Data Protection Act 1988 (No. 25 of 1088)) he or she finds there, extract information from any such data and take extracts from any such material,
- (iv) 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,
- (v) require the manufacture to give assistance, to carry out such instructions and to give such information as may be reasonably necessary, and
- (vi) seize and detain any vehicle that he or she has reasonable cause to suspect may be evidence of an offence under these Regulations.

17. (1) A person shall produce for inspection all records or documents kept by him or her under these Regulations upon request by an authorised officer.

(2) A person shall permit an authorised officer to examine a tractor, trailer, vehicle, system, component or separate technical unit upon request by an authorised officer.

18. (1) A person who contravenes these Regulations or the Directive is guilty of an offence and is liable on summary conviction to a fine not exceeding €3000.

(2) Where an offence under this Regulation 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.

19. The European Communities (Agricultural or Forestry Tractors Type Approval) Regulations 1979 (S.I. No. 137 of 1979) are revoked.

Given under my Official Seal,
28th day of January 2005

L.S.

Mary Coughlan
Minister for Agriculture 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. 137 of 1979.