

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION
WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND
NORTHERN IRELAND PROTOCOL**

**COMMISSION DELEGATED REGULATION (EU) .../... of 4.6.2021 amending
Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628
of the European Parliament and of the Council with regard to the acceptance of
approvals granted in accordance with Regulations Nos 49 and 96 of the
Economic Commission for Europe of the United Nations (UNECE)**

**ANNEX to the COMMISSION DELEGATED REGULATION (EU) .../... amending
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Economic Commission for Europe of the United Nations (UNECE)**

Submitted by Department for Transport

29 June 2021

SUBJECT MATTER

1. This document is an amendment to Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 on requirements relating to gaseous and particulate pollutant emission limits and type-approval of internal combustion engines for non-road mobile machinery. Regulation (EU) 2016/1628 is listed in Annex 2 of the Northern Ireland Protocol, therefore the amendments will apply to new machinery sold in Northern Ireland.
2. The term non-road mobile machinery (NRMM) covers a wide range of different machinery including lawnmowers and chainsaws, construction machinery, agricultural and farming machinery and railcars and locomotives.
3. Regulation (EU) 2016/1628 defines gaseous and particulate emission limits for engines fitted to NRMM and lays down the procedures engine manufacturers must follow in order to obtain type-approval of their engines (which is a prerequisite for placing an engine on the market in the UK). The Regulation also conferred power to the European Commission to produce delegated and implementing acts to deal with the technical details of the requirements.

4. The Commission brought forward Delegated Regulation (EU) 2017/654 for this purpose and, in doing so, completed the framework set out by Regulation (EU) 2016/1628. The Delegated Regulation included technical requirements and test methods relating to emission limits and a list of other standards that can be recognised as equivalent to the EU type approvals granted in accordance with Regulation (EU) 2016/1628.
5. EU vehicle regulations typically recognise the relevant technical standards of the United Nations Economic Commission for Europe (UNECE), which are generally supported by industry for providing global harmonisation. In the present case, UNECE Regulation 49 on emissions of heavy-duty road engines is recognised as equivalent to the latest EU standards for NRMM.
6. With this new amendment, the European Commission will also add UNECE Regulation No 96 to the list of standards recognised as equivalent to the latest EU type approvals. In practice, this will allow engine manufacturers to seek type-approval in accordance with the latest EU Regulation by obtaining approval under the relevant UNECE Regulation.

SCRUTINY HISTORY

7. The proposal that resulted in Regulation (EU) 2016/1628 was the subject of EM 13690/14. This was considered by the House of Commons European Scrutiny Committee on 29 October 2014. The Committee recommended that the document was legally and politically important and did not clear it (Report 16, Session 2014-15, 36367). The House of Lords Select Committee on the European Union referred the EM to Sub-Committee B at the 1560th sift on 21 October 2014. The Chairman wrote to the Minister on 2 December 2014 holding the document under scrutiny and requesting further information.
8. Following Ministerial letters to both Committees, the House of Commons European Scrutiny Committee cleared the proposal from scrutiny on 7 June 2016 (Report 4, Session 2016-17). The House of Lords Select Committee on the European Union cleared the proposal from scrutiny on 10 February 2015.
9. Delegated Regulation (EU) 2017/654 was not subject to Parliamentary scrutiny.

MINISTERIAL RESPONSIBILITY

10. The Secretary of State for Transport is responsible for mobile machinery emission standards. The Secretary of State for the Environment has lead responsibility for air quality issues. The Secretary of State for Business, Energy and Industrial Strategy has lead responsibility for trade issues.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

11. The topic of type approval is a reserved matter. The devolved administrations, particularly in Northern Ireland, have an interest and have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

i. Legal Base

Article 290 of the Treaty of the European Union on the ability to make delegated acts and Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC.

ii. Voting Procedure

Objection only through qualified majority in the Council of Ministers or majority of the European Parliament.

iii. Timetable for adoption and implementation

This amendment has been adopted by the European Commission on 4 June 2021 and will enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

POLICY IMPLICATIONS

12. These provisions form a delegated act under Regulation (EU) 2016/1628, which is listed in Annex 2 of the Northern Ireland Protocol. Therefore, they are in scope of the Protocol.

13. Manufacturers of engines intended for use in non-road mobile machinery will be able to make use of the additional equivalence provisions in this amendment for the purpose of gaining EU type approval once they are in force.

14. This amendment does not change the emission performance standards for engines fitted to Non-Road Mobile Machinery. As a result, EU-type-approvals of an engine approved in accordance with the latest version of Delegated Regulation (EU) 2017/654 applicable before this amendment came into force will remain valid.

15. The Government is yet to make a decision on whether any similar requirements will be mandated in Great Britain in light of UNECE Regulations Nos 49 and 96.

However, as the amendments do not impact upon the stringency of the emissions requirements and provide additional options for approval based upon internationally harmonised standards, the amendments are broadly viewed as positive.

CONSULTATION

16. EU Member States and the Non-Road Mobile Machinery manufacturing industry were consulted during the development of this amendment. Trade associations have been in contact with the Commission as it has been developing the amendment.
17. This amendment is not accompanied by a separate impact assessment, as an impact assessment for Regulation (EU) 2016/1628 has already been undertaken. This amendment does not alter the substance of that Regulation and does not impose new obligations on the concerned parties.

FINANCIAL IMPLICATIONS

18. There are no negative financial implications associated with this amendment since it does not impose any new obligations and is looking to permit alternative routes to placing on the market non-road mobile machinery engines.
19. For manufacturers of non-road mobile machinery engines that supply beyond the EU, these amendments could provide financial benefits by allowing a single harmonized approval route for multiple regions.



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