

**THE END OF LIFE VEHICLES
REGULATIONS 2003, 2005 AND 2010**

Government Guidance Notes

JUNE 2010

THE END-OF-LIFE VEHICLES REGULATIONS 2003, 2005 and 2010

STATUTORY INSTRUMENTS 2003 No. 2635, 2005 No. 263, 2010 No. 1094
and 2010 No. 1095

Government Guidance Notes

About this Guidance

1. This Guidance is intended to help those involved in placing onto the UK market¹, certain types of motor vehicles and their components, and those involved in, or having statutory responsibilities for, the treatment and recycling of end-of-life vehicles, to understand the application of the following Regulations:

- The End-of-Life Vehicles Regulations 2003
- The End-of-Life Vehicles (Producer Responsibility) Regulations 2005
- The End-of-Life Vehicles (Amendment) Regulations 2010
- The End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010

2. Whilst the 2005 Regulations make certain amendments to the 2003 Regulations, those two pieces of legislation are essentially complementary, together implementing all the provisions of the EU End-of-Life Vehicles Directive (2000/53/EC). The two 2010 Regulations have been introduced for the purpose of making a number of largely technical amendments to the 2003 and 2005 Regulations.

3. This Guidance aims to explain all the Regulations as interpreted by the Department for Business, Innovation and Skills (BIS), the Department for the Environment, Food and Rural Affairs (Defra) and the devolved administrations for Northern Ireland, Scotland and Wales. The Regulations affect the whole of the UK, but there are also parallel Regulations in both Northern Ireland and Scotland addressing storage and treatment of waste vehicles (see paragraphs 30 and 31).

4. This guidance cannot cover every situation and, of course, it may be necessary for you to carefully consider the relevant legislation to see how it applies in your circumstances. However, if you do follow the guidance it will help you to comply with the law.

¹ Guidance on when a product is deemed to have been placed on the market may be found in section 2.3.1, 'Placing on the market', of the European Commission's *Guide to the implementation of directives based on the New Approach and the Global Approach*

5. This guidance has been designed to comply with the “Code of Practice on Guidance on Regulation 2009”. This was published in October 2009 and a copy can be downloaded from the BIS website at www.bis.gov.uk.

Document Review

6. This is the June 2010 edition of these Guidance Notes. The Guidance Notes will be revised periodically, so affected businesses should keep themselves informed of changes. Such changes will be publicised on the BIS website and drawn to the attention of stakeholders, and information may also be obtained from the relevant Departments and devolved administrations.

7. Details of contacts for further information are given on page 37.

How to use this Guidance

8. This Guidance is restricted to the application of the four sets of Regulations listed above. It deals with technical requirements related to the manufacture of vehicles classified as M1 (passenger vehicles with up to 9 seats) and N1 (goods vehicles up to 3.5 tonnes). It also addresses requirements affecting the deregistration of those vehicles, and their scrapping and recycling when reaching the ends of their lives. In doing so, the Guidance explains how vehicle manufacturers are obliged to establish networks of facilities where their own brands of vehicle will be accepted for treatment free of charge to the final vehicle holder, and how responsibility for meeting recycling/recovery targets falls.

9. The Department for Environment, Food and Rural Affairs (Defra) has produced Guidance on those elements of the Environmental Permitting Regulations (England and Wales) 2010 which relate to the keeping and treatment of waste motor vehicles, including passenger cars and light vans. The Authorised Treatment Facilities referred to in the BIS Regulations are subject to this permitting regime. The Defra Guidance can be seen at http://www.defra.gov.uk/environment/policy/permits/documents/ep2010vehiclen_dlife.pdf)

Who are these Guidance Notes primarily intended for?

10. This guidance is aimed at producers of vehicles classified as M1 or N1 under the EU Whole Vehicle Type Approval system and producers of components for such vehicles. It is also aimed at businesses that are involved in the treatment of end of life vehicles and the re-use and recycling of materials arising from end of life vehicles.

Availability of these Guidance Notes

11. These Guidance Notes have been published as an 'electronic only' document and are, therefore, not available in hard copy form. They may be viewed on the BIS website at www.bis.gov.uk and copies of the document may be made without seeking permission. Other versions of the document (in Braille, other languages, large fonts and other formats) can be made available on request (see the contact at the end of the document).

Table of Contents

ELV Regulations – the law in brief	6
Key Requirements of the ELV Regulations	6
Enforcement Authorities	6
Non Compliance	7
Existing Community and relevant national legislation	7
Scope of all of the ELV Regulations	7
Application	7
Definitions	8
The Regulations – In Detail	
End of Life Vehicles Regulations 2003	9
End of Life Vehicles (Producer Responsibility) Regulations 2005	20
End of Life Vehicles (Amendment) Regulations 2010	33
End of Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010	35
Contact Points for further information	35

ELV Regulations – the Law in Brief

Key Requirements of the End-of-Life Vehicles Regulations

13. The main objective of the legislation is environmental protection.

14. The End of Life Vehicles Regulations 2003 transpose into UK law a number of provisions of the EC ELV Directive (2000/53/EC), namely:

- Restrictions on the use of certain heavy metals in vehicle and component manufacture;
- Marking of certain rubber and plastic vehicle components, and publication of design and dismantling information;
- The introduction of a Certificate of Destruction;
- “Free take-back” of vehicles put on the market from 1 July 2002;
- Licensing of authorised treatment facilities, and the site and operating standards with which they must comply.

15. The End-of-Life Vehicles (Producer Responsibility) Regulations 2005 transpose into UK law the remaining provisions of the ELV Directive (2000/53/EC), and cover, among other things:

- “Free take-back” of end of life vehicles (ELVs) from 1 January 2007;
- Producer obligations for providing take-back of ELVs through accessible networks of authorised treatment facilities (ATFs) and collection points;
- Producer and authorised treatment facility obligations in respect of achieving recovery and recycling targets for ELVs from 2006 onwards.

16. The End-of-Life Vehicles (Amendment) Regulations 2010 and End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010 amend certain aspects of the above two sets of Regulations.

Enforcement

Enforcement Authorities

17. A number of enforcement authorities are responsible for distinct requirements of the Regulations.

18. The Vehicle Certification Agency (VCA) enforces the technical requirements affecting the design of new vehicles and components.

19. The Environment Agency for England and Wales, the Scottish Environment Protection Agency and the Northern Ireland Environment Agency enforce the majority of the requirements relating to ATFs, where ELVs are de-polluted and dismantled.

20. BIS enforces the requirements for vehicle producers to have in place convenient networks of ATFs offering free take back for their brands of vehicles and the requirements for vehicle producers and ATFs to meet recovery/recycling targets.

21. The Driver and Vehicle Licensing Agency (DVLA) enforces those requirements which relate to the issuing of Certificates of Destruction.

Non Compliance

22. Non compliance with any of these regulations could leave a person liable to a penalty as set out in the Regulations – see further relevant paragraphs below.

Existing Community legislation and relevant national legislation

23. The Regulations do not override other EC legislation, or relevant national legislation, in respect of safety standards, air emissions, noise controls, and environmental protection.

Scope of the ELV Regulations

Application

24. The Regulations apply to vehicles designated as category M1 or N1, as defined in Annex IIA to Council Directive 70/156/EEC relating to the type approval of motor vehicles and their trailers, and to three-wheel motor vehicles as defined in Council Directive 92/61/EEC relating to the type approval of two or three-wheel vehicles, but excluding motor tricycles. Category M1 covers motor vehicles with at least four wheels, used for the carriage of passengers, and comprising no more than eight seats in addition to the driver's seat. Category N1 covers motor vehicles with at least four wheels, used for the carriage of goods, and having a technically permissible maximum laden mass not exceeding 3.5 tonnes. Broadly speaking, therefore, the Regulations apply to "passenger cars" and "light goods vehicles".

25. The term "producer" in the Regulations means the manufacturer or the professional importer of a relevant vehicle who places that vehicle onto the UK market, but not a private individual who imports a relevant vehicle.

26. The Regulations apply to the above-defined categories of vehicles, and their components and materials. An end-of-life vehicle, in the context of these Regulations, is an M1 or N1 vehicle which has been discarded and is waste when accepted by an authorised treatment facility for depollution and dismantling, rather than for repair and re-sale.

27. The Regulations apply irrespective of how the vehicle has been serviced and repaired. Producers' responsibility for free take back, therefore, is maintained whether or not the vehicle is equipped with originally-supplied components. However, the Department does not believe that body conversions which have been added to the chassis during the life of the vehicle – for example, horse boxes with living accommodation, etc - should be classified as “components”. In such circumstances, or when such significant user modifications have been carried out as to change the nature of the vehicle, the original vehicle producer's obligation to provide free take-back, should the vehicle have no value when scrapped, should not, in the Department's view, apply.

28. The Regulations also place certain requirements on producers of replacement components for M1 and N1 vehicles if the components that they are placing onto the UK market are intended to replace original components that were required to meet the Regulations' technical restrictions.

Definitions

29. A detailed list of definitions can be found in the Regulations themselves.

THE END-OF-LIFE VEHICLES REGULATIONS 2003

Entry into Force

30. These Regulations came into force in Great Britain on 3 November 2003, in respect of Parts I — VI, and on that date in England and Wales in respect of Part VII. In Northern Ireland, Parts I — IV came into force on 3 November 2003, and Parts V and VI on 31 December 2003.

31. Equivalent legislation covering Part VII of these Regulations is in place for Scotland (S.S.I. 2003/593), which came into force on 7 January 2004 and Northern Ireland (S.R. 2003/493), which came into operation on 19 December 2003.

Background

32. The End-of-Life Vehicles Regulations 2003 transposed into UK law a number of provisions of the EU End-of-Life Vehicles Directive (2000/53/EC), namely:

- Restrictions on the use of certain heavy metals in vehicle manufacture (Part III of the Regulations);
- Marking of certain rubber and plastics vehicle components, and publication of design and dismantling information (Part IV);
- The introduction of a Certificate of Destruction (Part V);
- Free take-back of vehicles put on the market from 1 July 2002, if having no value when scrapped (Part VI);
- Licensing of authorized treatment facilities, and the site and operating standards with which they must comply (Part VII).

Exemptions

33. Within the scope set out above, there are no complete exemptions. However, where a vehicle producer only places vehicles on the UK market to which article 8(2)(a) of Directive 70/156/EEC applies (vehicles produced in small-series), certain regulations do not apply (see paragraph 35).

Licensing of authorised treatment facilities and their operating standards

34. This part of the Regulations (Part VII) is explained in a separate guidance document published by the Department of Environment, Food and Rural Affairs, available at:

http://www.defra.gov.uk/environment/policy/permits/documents/ep2010vehicleen_dlife.pdf

THE REGULATIONS IN DETAIL

Note: Some regulations are not mentioned in this section because their significance is explained elsewhere in the document.

Regulation 5— Application to vehicles produced in small series

35. Vehicle producers that only place vehicles on the UK market to which article 8(2)(a) of the European Whole Vehicle Type Approval Directive (70/156/EEC) applies) need not comply with the provisions contained in Part IV of the Regulations (Information requirements).

Part III Requirements affecting the design of vehicles and components

Regulation 6— Prohibition on heavy metals

Note: It is particularly important that this part of the Guidance be read in conjunction with the section of this document explaining the 2010 ELV Regulations and the changes that they have made in respect of vehicle and component materials restrictions (see pages 34-36).

36. This requires that producers shall ensure that materials and components of vehicles which they put on the market on or after 3 November 2003 do not contain lead, mercury, cadmium or hexavalent chromium, unless used in the applications, and within the concentrations, set down in Schedule 1 to the Regulations. The Department construes these heavy metal restrictions as applying to components and materials of passenger cars and light goods vehicles, as well as their automotive accessories, except in the case of accessories for special purpose vehicles, where those accessories themselves are directly relevant to the special purpose of the vehicle, for example, medical equipment in ambulances, habitation equipment in motor caravans etc.

37. The ELV Directive does not contain a definition of “put on the market”, a term which is often used in EC single market measures. It is understood (in the context of so-called New Approach Directives) to mean when a product is made available in return for payment or free of charge, with a view to distribution, use, or both, for the first time on the Community Market.

38. The heavy metals restrictions in the Regulations apply to vehicles and vehicle materials and components put on the market on or after the date in which these Regulations came into effect, and to replacement parts for such vehicles, if such parts are put on the market on or after that date. Vehicle materials and components for vehicles put on the market before the date on which these Regulations came into effect are exempt from the restrictions. This approach avoids the adverse economic and environmental impacts which would result from prematurely scrapping both (a) vehicles which can no longer be repaired because of an absence of compliant replacement parts; and (b) replacement parts which have already been put on the market, but not yet incorporated into

new vehicles. This approach does not, however, apply to wheel balance weights, carbon brushes for electric motors and brake linings as these components are covered in specific entries to Annex II of the ELV Directive (see footnote to the Directive's Annex II and its subsequent amendments), unless the components in question were originally put on the market before these Regulations came into effect.

39. The heavy metals restrictions do not apply to “generic” components that could be fitted to many different types of vehicles, including those that pre-date the requirements and/or vehicles such as coaches or heavy goods vehicles that are outside the scope of the Regulations (e.g. DIN sized radios, floor mats, navigation or parking aids and tow bars). Again, this approach does not apply to wheel balance weights, carbon brushes for electric motors and brake linings for vehicles within the scope of the Directive (see paragraph 38 above).

Note: Subsequent amendments to Annex II of the Directive alter or delete various entries on the list and also make clearer the approach that is intended for replacement components. (See the later guidance on the ELV (Amendment) Regulations 2010 and their reference to the European Commission website.)

Regulations 7 and 8 — Requirement for technical documentation

40. A producer needs to compile documentation which would enable the enforcement authority, the VCA, to be assured that the vehicles, materials and components which that producer put on the market on or after 3 November 2003 comply with the heavy metals restrictions in the Regulations. The Department does not propose to specify a method by which this information is obtained by a producer, nor the form in which it is compiled and kept, but the enforcement authority will need to be able to access, on request, such technical documentation as will enable him to be assured that a producer is complying fully with the heavy metal restrictions. Such technical documentation might, for example, take the form of a file of collected “assurances of conformity” from a producer’s material and component suppliers. The VCA may ask a producer to submit such technical documentation at any reasonable time.

41. A producer should retain such technical documentation for a period of 4 years from the date in which he puts those vehicles, materials and components on the market.

Regulation 9— Compliance Notice

42. This simply describes the system under which the VCA, if suspecting that a producer has not complied with the design requirements, may serve notice on that producer to comply, or provide evidence that he is complying or has complied.

Regulation 10— Offences

43. A producer failing to comply with any of the design requirements set down in Regulations 6, 7, and 8, will be guilty of an offence.

Regulation 11 — Penalties

44. This sets down the various penalties to which a producer found guilty of an offence under the design requirements would be liable.

Regulation 12— Defence of due diligence

45. This describes the grounds under which it would be a defence, in proceedings against a producer for an offence under the design requirements, for that producer to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

Regulation 13— Liability of persons other than the principal offender

46. This describes the circumstances under which the commission of an offence by a producer under the design requirements, if due to an act or default committed by another person in the course of any business of theirs, the latter shall also be guilty of the offence.

Part IV Information requirements applying to vehicle producers

Regulations 14, 15, 16 and 17— Coding standards

47. These set down the requirement for certain rubber and plastics parts to be marked (“coded”) with the nomenclature set down in Schedule 2 to the Regulations. This marking system is in order to promote the dismantling, for reuse, recycling, and recovery, of discrete components, and the Department does not believe that it is necessary for all plastics and rubber materials above the threshold weights specified in Schedule 2 to be so marked, if there is little prospect of their being dismantled and separately recovered, e.g. plastics and rubber bonded against other materials to form laminates and multi-material sheet for vehicle roof, bonnet and boot lining, sound-deadening etc.

48. The marking requirements do not apply to tyres.

49. A producer needs to compile documentation which would enable the enforcement authority, the VCA, to be assured that the coding standards are being complied with in vehicles, materials and components which that producer put on the market on or after 3 November 2003. The Department does not propose to specify a method by which this information is obtained by a producer, nor the form in which it is compiled and kept, but the enforcement authority will need to be able to access, on request, such technical documentation as will enable him to be assured that a producer is complying fully with the coding standards. Such technical documentation might, for example, take the form of a

file of collected “assurances of conformity” from a producer’s material and component suppliers.

50. The VCA may ask a producer to submit such technical documentation at any reasonable time. A producer should retain such technical documentation for a period of 4 years from the date in which he puts those materials and components on the market.

Regulations 18 and 19— Dismantling information

51. Within six months of putting a new type of vehicle on the market, a producer must provide dismantling information in respect of that type of vehicle. Regulation 18(2) sets down what this information should cover, but does not specify its form in detail. The Department believes that a producer should be able to discharge his responsibilities in this context by providing manuals and/or by means of electronic media, e.g. via a producer’s website, or by his contributing to recognised CD-ROM databases, such as IDIS, the International Dismantling Information System.

52. The VCA may ask a producer to submit to it such dismantling information at any reasonable time.

Regulation 20— Reporting and information

53. This requires producers to publish information on the design of their vehicles, in the context of recoverability and recyclability, and to make this available to prospective buyers. In respect of new types of vehicles, such information will need to be used in any promotional literature used for their marketing. Directive 2005/64/EC on the Type Approval of Motor Vehicles with regard to their Reusability, Recyclability and Recoverability was agreed in Europe on 26 October 2005 and transposed into UK law by S.I. 2007 No. 855 on 14 March 2007. This Directive sets a new technical standard to which certain types of vehicles need to be designed and built in order to meet the recyclability and recoverability standard introduced in Article 7.4 of the ELV Directive. All vehicle producers should check the applicability of this new Type Approval Directive to their particular vehicles. These standards may form the basis of the information provided to potential buyers.

Regulations 21 and 22— Compliance Notice

54. These simply describe the system under which the VCA, if suspecting that a producer has not complied with the information requirements, may serve notice on that producer to comply, or provide evidence that he is complying or has complied.

Regulation 23— Offences

55. A producer failing to comply with any of the information requirements set down in Regulations 16, 18, and 20 will be guilty of an offence.

Regulation 24— Penalties

56. This sets down the penalty to which a producer found guilty of an offence under the information requirements would be liable.

Regulations 25 and 26— Enforcement

57. These record that it is the duty of the Secretary of State for Trade and Industry (now Business, Innovation and Skills) to enforce Parts III and IV of the Regulations. He has for the time being appointed the VCA to carry out this function on his behalf. The ELV (Amendment) Regulations 2010 further address enforcement of Parts III and IV.

Part V Certificate of Destruction for ELVs

Regulation 27— Issue of certificate of destruction

58. Article 5.3 of the ELV Directive states:

“Member States shall set up a system according to which the presentation of a certificate of destruction is a condition for deregistration of the end-of-life vehicle. This certificate shall be issued to the holder and/or owner when the end-of-life vehicle is transferred to a treatment facility. Treatment facilities, which have obtained a permit in accordance with Article 6, shall be permitted to issue a certificate of destruction. Member States may permit producers, dealers and collectors on behalf of an authorised treatment facility to issue certificates of destruction provided that they guarantee that the end-of-life vehicle is transferred to an authorised treatment facility and provided that they are registered with public authorities.

Issuing the certificate of destruction by treatment facilities or dealers or collectors on behalf of an authorised treatment facility does not entitle them to claim any financial reimbursement, except in cases where this has been explicitly arranged by Member States.”

59. Regulation 27 means that only ATFs may issue Certificates of Destruction (CoDs) to the last holder or owner (or, if a company, a representative). This is not necessarily the registered keeper. Only ATFs are eligible to establish the electronic link with the Driver and Vehicle Licensing Agency through which the CoD is issued. The recipient of the CoD should be advised to keep it indefinitely, as proof that he or she is no longer responsible for that vehicle. A CoD will be issued when that vehicle is accepted by an ATF as an ELV for depollution and dismantling, and the ATF's electronic link with DVLA has confirmed approval to issue. The generation of the CoD will trigger the deregistration of the vehicle from the DVLA register.

60. Once a CoD has been issued for a vehicle, the ATF is responsible for de-polluting and destroying that vehicle. DVLA will not register or license the vehicle again for use, even under a different registration mark, unless in rare and exceptional circumstances.

61. ATFs may not issue a duplicate CoD.

Regulation 28— Prohibition of charges

62. Regulation 28 means that an ATF may not charge the last holder or owner specifically for the act of issuing the CoD.

Regulation 29 -- Form and content of the certificate of destruction

63. In order that the CoD is mutually recognised and accepted in all Member States (so that, for example, cars becoming ELVs while being driven in another EU country can be legitimately removed from the home register), a “minimum requirement” for the design of the CoD was drawn up by the European Commission and adopted by Member States. The form of the CoD is set down in Schedule 2 to the Regulations.

Regulation 30— Enforcement

64. This indicates that the duty of enforcement for part V of the Regulations falls in Great Britain upon the Secretary of State for Transport and, in Northern Ireland, upon the Department of the Environment.

Regulation 31 —Offences

65. This informs that a person who contravenes Regulations 27 or 28 will be guilty of an offence.

Regulation 32— Penalties

66. This sets down the penalty to which a person found guilty of an offence under the Regulation would be liable.

Regulation 33 CoD issued in EEA State or Gibraltar

67. This explains that a CoD issued by an ATF in a European country which is a contracting party to the Agreement on the European Economic Area, and Gibraltar, if issued in respect of a vehicle on the UK national register, shall have the same effect as a CoD issued in the UK. (See related text under Regulation 29 above).

Regulation 34— Amendments to Road Vehicles (Registration and Licensing) Regulations 2002

68. This makes the necessary consequential amendments to other relevant legislation.

Regulation 35 -- Restrictions on disclosure of information

69. This Regulation is one of the provisions amended (in this case deleted) by the 2010 Regulations.

Regulation 36— Interpretation

70. This explains the meaning of “register” in this context, and identifies the Secretary of State (Transport) having enforcement duties for this Part of the Regulations.

PART VI Delivery of ELVs to treatment facilities

Regulation 37— Application

71. Article 5.4 of the ELV Directive states that:

“Member States shall take the necessary measures to ensure that the delivery of the [end-of-life] vehicle to an authorised treatment facility [in accordance with paragraph 3] occurs without any cost for the last owner and/or holder as a result of the vehicle’s having no or a negative market value.

Member States shall take the necessary measures to ensure that producers meet all, or a significant part of, the costs of the implementation of this measure and/or take back end-of-life vehicles under the same condition [as above paragraph].

Member States may provide that the deliver, of end-of-life vehicles is not free of charge if the end-of-life vehicle does not contain the essential components of a vehicle, in particular the engine and the coach work, or contains waste which has been added to the end-of-life vehicle.”

72. Regulation 37 indicates that Regulations 38 and 39 apply to vehicles which were placed on the market on or after 1 July 2002 and which have no market value when scrapped. See explanation above in respect of Regulation 6 of the Department’s interpretation of the term “put on the market”, which is not defined in the ELV Directive.

Regulations 38 and 39— Delivery of an end-of-life vehicle to a treatment facility

73. Regulation 38(1) provides that, when accepting an ELV originally put on the market on or after 1 July 2002, an ATF may not charge the last holder or owner for doing so, if that ELV is complete and has no market value.

74. Regulation 38(2) defines what constitutes a “complete vehicle”, on its being delivered to an ATF. This definition seeks to retain as much recoverable value as possible within the end-of-life vehicle, to maximise the prospect of parts reuse and materials recovery, and to minimise the number of vehicles that might have no market value on arrival at the ATF.

75. The ELV Directive does not define “no or negative market value”. For the purposes of Regulation 39, which expresses the producer’s responsibility for meeting the costs of providing free take back of a vehicle with no market value, it is anticipated that such vehicles would be returned to an ATF that had established a contractual relationship with the producer. The valuation of a vehicle would be the subject of negotiations between the ATF and the producer who put the vehicle on the market, or between the latter and the insurance company, recovery agent, or local authority who had become the last owner or holder. Such negotiations would be for the parties concerned, but the Department would expect negotiations to take into account the likely cost of treatment (depollution, dismantling and issue of CoD) and the projected income from reused elements and materials recovered from dismantling, shredding and other recovery operations.

Regulations 40 and 41 — Enforcement

76. Regulation 40 indicates that the duty of enforcement for part VI of the Regulations falls in Great Britain upon the Secretary of State for Trade and Industry (now Business, Innovation and Skills) and, in Northern Ireland, upon the Department of the Environment. Regulation 41 requires a producer to provide a certificate of compliance to the enforcement authority, certifying that he has discharged his obligations under this Regulation.

By post to

ELV Registrations Unit
Department for Business, Innovation and Skills
Bay 191
1 Victoria Street
London
SW1H 0ET

Or by e-mail to

elvregistration@bis.gsi.gov.uk

77. The information which needs to be provided in the certificate of compliance is set down in Schedule 4 to the Regulations. A producer needs to identify himself and the marque or marques of vehicles he has put on the market on or after 1 July 2002. These are the vehicles for which he must provide free take-back when, if complete when scrapped, they have no value. A producer needs to communicate his contact details, and the vehicles for which he takes

responsibility, to representative organisations for the motor vehicle insurance, salvage and recovery industries, in order that, should a post-July 2002 vehicle have no value when scrapped, such organisations can negotiate free take-back with that producer. In respect of multi-stage build vehicles, the manufacturer or professional importer who puts the base vehicle on the market should be considered to be the producer.

Note: the scope of Regulations 37 to 41 have subsequently been altered by the introduction of the producer responsibility requirements in the 2005 Regulations which effectively put in place the same requirements described above for **all** M1 and N1 vehicles, not just those placed on the market on or after 1 July 2002.

Regulation 42— Offences

78. This indicates that a person who contravenes Regulations 38(1) and 41(1) will be guilty of an offence.

Regulation 43 – Penalties

79. This sets down the various penalties to which persons found guilty of an offence under Regulation 42(1) or (2) would be liable.

Part VII Keeping and treatment of waste motor vehicles

80. This part of the Regulations was revoked by the Environmental Permitting Regulations (England and Wales) 2010 which relate to the keeping and treatment of waste motor vehicles. As noted in paragraph 9, Defra has produced separate Guidance Notes for these.

Schedule I

81. This Schedule lists the materials and components exempt from the prohibition on the use of certain heavy metals (Regulation 6), defines the scope and expiry date, if any, of those exemptions, and indicates whether the relevant materials and components need to be labelled to aid dismantling.

Note: This schedule has been superseded by an amendment to the 2010 Regulations.

Schedule 2

82. This schedule sets down the nomenclature of material and component coding standards (Regulation 15).

Schedule 3

83. This schedule defines the minimum requirements for the Certificate of Destruction (Regulation 29).

Schedule 4

84. This schedule sets down the information needed to be provided in the certificate of compliance (Regulation 41).

Schedule 5

85. This schedule lists the conditions to be included in site licences (Regulations 44, 45 and 48 — see separate Defra Guidance Notes).

THE END-OF-LIFE VEHICLES (PRODUCER RESPONSIBILITY) REGULATIONS 2005

Entry into Force

86. The Regulations came into force on 3rd March 2005.

Background

87. The End-of-Life Vehicles (Producer Responsibility) Regulations 2005 transpose into UK law a number of provisions of the EU End-of-Life Vehicles Directive (2000/53/EC), most notably:

- “Free take-back” of end of life vehicles from 1 January 2007;
- Producer obligations for providing accessible networks of authorised treatment facilities and collection points;
- Producer and authorised treatment facility obligations in respect of achieving recovery and recycling targets for ELVs from 2006 onwards.

Exemptions

88. Within the scope set out above, there are no complete exemptions. However, there are two instances where, for particular types of vehicles, certain requirements do not apply, as follows:

- Special-purpose vehicles as defined in the second indent of Article 4(1)(a) of Directive 70/156/EEC shall be excluded from Regulations 18 to 20;
- For three-wheeled motor vehicles that fall within the scope of these Regulations, Regulations 10(6) and 18 to 20 shall not apply.

THE REGULATIONS IN DETAIL

Note: Some Regulations are not mentioned in this section because their significance is explained elsewhere in the document.

Regulation 5 – Application to special-purpose vehicles

89. The recovery and recycling targets described in regulation 18 do not need to be attained in respect of special-purpose vehicles (e.g. motor-caravans, ambulances, hearses, etc). The weight of such vehicles, when they become ELVs, does not therefore count towards the baseline against which the UK needs to achieve the overall recovery and recycling target, and their producers have no

recovery and recycling obligation in respect of them, although the Department encourages such recovery and recycling.

Regulation 6 – Application to three-wheeled motor vehicles

90. Producers have neither an obligation to provide free take-back for three-wheeled vehicles when they reach end-of-life, nor to achieve the recovery and recycling targets in respect of their weight. The weight of such vehicles, when they become ELVs, does not therefore count towards the baseline against which the UK needs to achieve the overall recovery and recycling targets. However, as is the case for special-purpose vehicles, the Department encourages recovery and recycling of three-wheeled vehicles.

Registration by Vehicle Producers

Regulation 7 – Registration and declaration of responsibility by producers

91. This regulation sets down the arrangements for declarations of “producer responsibility”.

92. Regulation 7(1) required producers to apply to the Secretary of State for Trade and Industry (now Business, Innovation and Skills) in writing (this could include by electronic means) for registration and to declare responsibility for the vehicles which they have put on the market.

93. Regulation 7(2) requires that, from 1st May 2005, producers must declare responsibility for vehicles which were not the subject of an earlier declaration, within six months of putting those vehicles on the market. In most cases (the introduction of new marques or a change in marque ownership being exceptions), declarations under regulation 7(2) are likely only to be made by those few producers who have chosen to declare their responsibility through VIN numbers rather than by marque – (see paragraph 18 below).

94. Regulation 7(3) requires a producer who no longer places vehicles on the market to inform the Secretary of State within 28 days of that change in his circumstances. Regulation 7(6), however, makes clear that responsibility under the Regulations for the vehicles for which that producer has previously declared responsibility remains with the producer unless the circumstances in Regulation 9 apply (see paragraph 102 below).

95. Regulation 7(4) and Schedule 1 to the Regulations set down the information that must be provided in any application for producer registration. An application must include a clear description of the vehicles for which the producer declares responsibility. Such a description may be in the form of:

- (a) the marque (i.e. the brand or make) of the vehicles for which the producer declares responsibility; or

(b) the individual VINs (Vehicle Identification Numbers) of the vehicles for which the producer declares responsibility.

96. Producers declaring responsibility by quoting individual VINs must make such further declarations no later than within six months of putting those vehicles on the market.

97. Applications for registration should be made:

By post to

ELV Registrations Unit
Department for Business, Innovation and Skills
Bay 191
1 Victoria Street
London
SW1H 0ET

Or by e-mail to

elvregistration@bis.gsi.gov.uk

98. Regulation 7(5) explains that the details provided by producers in respect of regulations 7(1) to (4) will be included in the public register which is to be maintained by the Department under Regulation 21 (see paragraph 140 below).

99. Regulation 7(7) sets down the timetable in which producers will be notified that their applications for registrations comply with the requirements of the Regulations, and that registration has been granted. Producers will be so notified within 3 weeks of receipt of compliant applications made by 30th April 2005, and within 4 weeks of receipt of any compliant application made after that date. Regulation 7(8) stipulates that when a producer's application for registration is rejected, that producer will be informed within 4 weeks of receipt of his application, and given reasons for the rejection.

100. Regulation 7(9) requires a producer to inform the Secretary of State within 4 weeks of any change in the circumstances which relate to his registration (other than where he has been ascribed responsibility for additional vehicles under regulation 8 – see paragraph 101 below).

Regulation 8 – The Secretary of State's decision to ascribe responsibility to a producer in respect of vehicles placed on the market

101. Regulation 8(1) provides that the Secretary of State may ascribe, to a producer, responsibility for vehicles for which no other producer has declared responsibility. Where the Secretary of State takes such a decision, he shall send to the producer a notice in writing within 2 weeks of the decision having been taken, and will set down the reasons for the decision (regulations 8(2) and 8(4)).

In reaching a decision, the Secretary of State will take into account the identity of the person who manufactured the vehicle, or put his name on the vehicle, or placed the vehicle on the market, or who used or has the right to use a trademark or other distinguishing mark in relation to the vehicle (see Schedule 2 to the Regulations). The Secretary of State may revoke or amend a decision in the light of representations received from the producer to whom responsibility has been ascribed. Any such representations must be made by a producer within 4 weeks of the date on which the notice informing him of the decision to ascribe was issued. Regulation 8(7) explains that if the Secretary of State does not ascribe responsibility for vehicles for which no producer has declared responsibility, such vehicles could be subject to Agreements of the kind referred to in regulation 26 which the Secretary of State may enter into with one or more producers, or an organisation or organisations representing the interests of relevant producers.

Regulation 9 -- Transfer of a producer's business to another

102. If a producer transfers his business to another producer, he will remain responsible for the vehicles for which he has declared responsibility, unless he can demonstrate that the person to whom the business has been transferred has agreed to take over responsibility for the obligations in respect of those vehicles. These responsibilities include: to apply for registration; to establish and submit details of a system for collection and treatment; and to achieve the relevant targets for re-use, recovery and recycling.

Systems for collection of ELVs

Regulation 10 – Producer's obligation to establish and submit details of his system for collection

103. Regulation 10(1) requires each producer to establish a system for the collection and treatment of the vehicles for which he has declared responsibility, or has been ascribed responsibility, when those vehicles become ELVs. To be approved, an application must satisfy the Secretary of State that the producer has established a system for collection and treatment which is adequate to deal with (i.e. take back and treat) the vehicles for which he has declared responsibility, or has been ascribed responsibility. A producer's system (or "network") must be of an extent that reflects certain specifications of treatment capacity and accessibility, which are set out below.

104. When establishing a system for collection and treatment of vehicles which were the subject of a registration made after 30th April 2005, the application for approval must be made within six months of those vehicles being placed on the market (regulation 10(2)(b)). In most cases, such systems need initially cover only predicted numbers of "premature" ELVs. An exception would be in respect of imported elderly second-hand vehicles, since these would be more likely to become "natural" ELVs in the short-term. In circumstances where a producer has been ascribed responsibility for vehicles, he shall submit for approval a plan

in respect of those vehicles within 3 months of having been notified of the responsibilities which have been ascribed to him (Regulation 10(2)(c)).

105. Regulation 10(3) and Schedule 3 to the Regulations sets down the information which a producer's application for approval must contain. This includes:

- The number of vehicles for which the producer has declared responsibility, or been ascribed responsibility for, which he believes will be come ELVs in the following year;
- Details of his collection system – number and location of contracted ATFs and collection points (or alternative arrangements, such as collection from the household etc);
- In respect of a producer's contracted ATFs, the licence number which has been issued to each by the Environment Agency, the Scottish Environment Protection Agency, or the Northern Ireland Environment Agency, as appropriate, and the depollution capacity of each facility which is available to that producer to treat vehicles for which he has responsibility;
- The measures that the producer intends to take to publicise his collection system for the benefit of last owners. Such measures may be tailored to a producer's distribution of ELVs, and comprise locally-directed or web-based media.

106. In the light of the growth of the "independent" ATF infrastructure since the introduction of the Regulations, and the continuing strong value of metal scrap, the Department has suspended for the time being the need for producers to submit annually details of their network's capacity and predicted number of ELV arisings.

107. Regulation 10(4) requires the producer to inform the Secretary of State within 28 days of any significant change in the details of his collection system (for example, the closure of, or reduced treatment capacity at, a contracted ATF), which results in the producer being unable to meet his obligations in respect of network capacity or accessibility. Within that same period, a producer must submit a revised application for approval of his network.

108. Regulation 10(5) provides that the Secretary of State shall require a producer to submit a revised application for approval, if he becomes aware of circumstances which materially affect the capacity or accessibility of a producer's collection system.

109. Regulation 10(6) provides that a producer's contractual arrangements with all the elements in his collection system must preclude the charging of the last holder or owner for taking-back a relevant ELV, if that ELV is complete, and does

not contain added waste. In circumstances where a local authority is discharging its statutory responsibilities for removing an abandoned or nuisance vehicle, that local authority becomes the effective last owner or holder, and is entitled to the same free take-back arrangements as a private individual. Take-back is available even in circumstances where the appropriate vehicle paperwork (i.e. the registration document) has been lost, stolen or destroyed.

110. Regulation 10(7) defines what constitutes a “complete vehicle”, on its being delivered to an ATF. This definition seeks to retain as much recoverable value as possible within the ELV, to maximise the prospect of parts reuse and materials recovery, and to minimise the number of vehicles that might have no market value on arrival at the ATF. The essential components of a vehicle in this context are defined in regulations 10(7) and 12(3) as the engine, transmission, coachwork, wheels, and catalytic converter, if one was present when the vehicle was placed on the market.

111. The ELV Directive requires producers to meet all or a substantial part of the costs of providing “free take-back” for ELVs, even when they have “no or negative market value”. But the Directive does not define “no or negative market value”. The approach to implementing the Directive in the UK allows for ATFs to operate either within, or outside the vehicle producers’ networks. Regulation 10(6) expresses the producer’s responsibility for meeting the costs of providing free take-back of a vehicle with no market value, when it is delivered into his network. The valuation of a vehicle would be the subject of negotiations between the ATF or collection point and the producer who put the vehicle on the market. Such negotiations would be for the parties concerned, but the Department would expect negotiations to take into account the likely cost of treatment (depollution, dismantling and issue of the CoD and recovery and recycling, and the projected income from reused elements and materials recovered from dismantling, shredding and other recovery operations.

Regulation 11 -- Accessibility of the system for collection

112. The ELV Directive does not define “accessibility” but for the purposes of implementing the Directive in the UK, and following consultation, the Department has decided that the following arrangements are reasonable for ELV owners and obligated producers. A producer’s plan must indicate the number and geographical location of ATFs and other collection points in his network, and the plan must meet the criterion that 75% of last owners or holders of the ELVs for which that producer has responsibility are within 10 miles, on average, of the point of delivery of ELVs into the producer’s network. The 75% requirement applies separately to England, Scotland, Wales and Northern Ireland.

113. In addition, a producer must also ensure that no individual last owner is more than 30 miles from an ATF or collection point within the network established by that producer. It is expected that producers will wish to offer a collection service, or some similar approach, in remotely populated areas, rather than set up ATFs or collection points with low levels of throughput.

114. The Department understands that a number of producers have precise data relating to the location of registered vehicles of an age which makes them likely to become ELVs in the near future. Producers may also base their plans upon recognised population densities, rather than seek to predict the precise location of their own marque of ELVs. In the interests of efficiency, and to maximize throughput, producers may wish to position their contracted ATFs in locations which reflect the expected location and numbers of the ELVs arising. However, a producer not wishing to contract with such a number of facilities, on the grounds that his expected number of ELVs would require very limited de-pollution capacity, may choose to adopt alternative approaches, provided that the underlying convenience for last owners or holders is not compromised. Some producers with limited annual ELV numbers may wish, for example, to undertake to collect ELVs from last owners if requested, and to transport to a suitable ATF depending upon the particular prevailing circumstances.

115. The Regulations do not prevent an ATF being part of more than one producer's network, nor do they prevent a producer sub-contracting delivery of his network and capacity obligations to a service provider - although the statutory obligations remain with the producer. Experience since the Regulations were first introduced has shown that all major vehicle producers have made use of two such service providers, Autogreen and Cartakeback, to help administer certain aspects of their obligations.

Regulation 12 – Capacity of a network of authorised treatment facilities

116. A producer's network must contain sufficient treatment capacity to depollute and dismantle the vehicles for which the producer has declared responsibility, or has been ascribed responsibility, and which are likely to become ELVs during 2006 and annually thereafter (Regulation 12(1)).

117. Regulation 12(2) provides that, when accepting an ELV for which it has a contract with a producer, an ATF or collection point may not charge the last holder or owner for doing so, if that ELV is complete and has no or negative market value, and may not turn such a vehicle away.

118. Regulation 12(3) defines what constitutes a "complete vehicle", on its being delivered to an ATF. As noted above, this definition seeks to retain as much recoverable value as possible within the ELV, to maximise the prospect of parts reuse and materials recovery, and to minimise the number of vehicles that might have no market value on arrival at the ATF.

Regulation 13 – Approval of a producer's application to establish a collection system

119. In assessing the adequacy of a producer's capacity plan, the Regulator will take into account an estimate of the average time needed by an ATF to receive an ELV, issue a CoD, depollute, dismantle and otherwise deal with an ELV.

Actual treatment times will depend on a number of factors, including the age, condition, make and model of the vehicle, the depollution equipment used, and the efficiency of the operator. Defra/BIS's "Depollution Guidance for ATFs", issued in November 2003, based on purpose built equipment (a "de-pollution rig"), indicated that an ELV can be drained of fluids in 20-30 minutes. A doubling of that time to cover associated activity seems reasonable, but too rigid an approach to assessing capacity would be inappropriate. Producers' capacity plans may include the number of de-pollution rigs each contracted ATF contains, and the number of operatives in situ. The Depollution Guidance is available electronically at:

<http://www.bis.gov.uk/policies/business-sectors/environmental-and-technical-regulations/elv-regulations>

120. Approval of a producer's application will be granted where the Secretary of State considers that it complies with both the treatment capacity and network accessibility requirements.

Regulation 14 – Revisions to a producer's application for approval of a collection system

121. There are a number of circumstances in which a producer may wish, or need, to revise his collection system, or as a result of which the Regulator requires him to revise his system. These various circumstances are set down in Regulation 14.

122. Regulation 14(1) requires a producer to submit a revised application for approval, if he believes that his current network will be unable to deliver his treatment capacity and accessibility obligations in a coming year. This could be, for example, when a producer foresees a significant increase in the number of relevant vehicles which are likely to be taken in by his collection system, and capacity or accessibility may be compromised. Such an increase might result from a "bulge" in registrations in an earlier year.

123. Regulation 14(2) authorises the Secretary of State to require revisions to an application for approval, if he considers that such application does not meet a producer's obligations for providing adequate treatment capacity and accessibility.

124. Regulation 14(3) requires that revised applications made under Regulations 14(1) or 14(2) must be submitted to the Secretary of State at least 3 months before the start of the calendar year in which they are intended to operate. And Regulation 14(4) explains that a compliant revised application will be approved within 4 weeks of receipt of that revised application.

125. Under Regulation 14(5), a producer may submit a revised application for approval, if he has grounds for believing that either the treatment capacity or accessibility of his current approved network exceeds his obligations in respect of

the number of vehicles which he expects to be dealt with by his network in a coming calendar year. Such grounds might include a significant trough in relevant vehicle registration numbers, or empirical evidence of substantial numbers of relevant ELVs being taken back by ATFs with whom the producer has no contractual arrangement. Applications must be made not less than 3 months before the beginning of the calendar year in which the revised network is intended to operate.

Regulation 15 – Authorised treatment facilities

126. A producer has no responsibility in respect of an ELV for which take-back has been provided to the last owner or holder by an ATF which has no contractual arrangement with the relevant producer. Whether the take-back service there is free or not is a matter between the ATF and the last owner of the vehicle, since this a matter of private agreement.

Regulation 16 – Compliance Notice

127. This regulation provides that, where the Secretary of State has grounds for believing that a producer has not complied with any or all of Regulations 7(1), 7(2), 7(3), 10, 11, and 12, a notice of compliance may be served on the relevant producer.

Regulation 17 – Content of a compliance notice served under regulation 16

128. This regulation sets down the contents of a compliance notice served under Regulation 16. Among other things, this will specify the period of time within which the producer must comply with the notice.

Reuse, Recovery and Recycling of ELVs

Regulation 18 -- Reuse, recovery and recycling targets

129. This regulation sets down the obligations which fall upon producers in respect of achieving the recovery and recycling targets in the Directive in respect of the relevant ELVs which are taken back through their appointed collection network. The same obligations fall upon ATFs, should they decide to take back ELVs for which they do not have a contractual obligation on behalf of a producer.

130. Regulation 18(1) requires that a producer must achieve a reuse and recovery target of 85% and an 80% reuse and recycling target of the weight of the vehicles for which he has declared responsibility, together with any for which he has been ascribed responsibility, and which are treated by his collection network during 2006 and subsequent years.

131. Regulation 18(2) requires that a producer must achieve a reuse and recovery target of 95% and an 85% reuse and recycling target of the weight of the vehicles for which he has declared responsibility, together with any for which

he has been ascribed responsibility, and which are treated by his collection network during 2015 and subsequent years.

132. Regulation 18(3) requires owners or operators of ATFs to achieve the same targets in respect of the weight of vehicles which they treat without having an agreement with a producer to do so.

133. Regulation 18(4) sets lower targets in respect of the weight of vehicles put on the market before 1980 – namely, 75% reuse and recovery, and 70% reuse and recycling.

134. Regulation 18(5) requires producers and owners or operators to submit to the Regulator (see paragraph 136 below) details of the reuse, recovery and recycling rates they have achieved, by a specific date in respect of 2006, and by the same date in each succeeding year, in respect of the preceding calendar year.

Note: The 2010 Regulations amend the deadline for doing this from 1 April, to 1 July each year.

135. Under the Regulations, “reuse” means any operation by which components of ELV are used for the same purpose for which they were conceived; “recycling” means the reprocessing in a production process of waste materials from ELV for the original purpose or for other purposes; and “recovery” means either re-use, recycling, or incineration with energy recovery.

136. The End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010 introduce a requirement that re-use, recovery and recycling data must be reported to BIS in a format published by the Secretary of State. The information, and format in which it is to be provided, is available from the ELV pages of the BIS website (<http://www.bis.gov.uk>). This provides all obligated parties with a simple, consistent means of calculating their performance against their obligations, and ensures that all required information is provided. One such form needs to be completed showing the quantities of materials re-used, recycled and recovered from all of the ELVs treated in each January to December calendar year period. “Service providers” such as Cartakeback and Autogreen (see paragraph 115 above) can assist obligated parties (e.g. vehicle producers and ATFs) in the preparation and submission of this information, but this does not affect the statutory obligations which continue to rest with vehicle producers and ATFs.

137. In order to assist those with a reporting obligation, in 2005, BIS, with the help of stakeholders, carried out a “shredder trial” where 400 typical ELVs were weighed, depolluted in line with Directive requirements and shredded. This produced some base-line figures on the quantity of metal and other recyclable/recoverable materials in typical ELVs. The typical metal content of 75% by weight is allowed to be assumed by ATFs as a protocol, as provided for under an agreed approach by the European Commission. An allowance of 1%

by weight can also be assumed for residual fuel. While the European Commission does not presently provide for protocols in other areas, the trial also calculated average weights for tyres, batteries and fluids, and should ATFs not have access to reliable information in this area, they may wish to refer to these average weights. The metal content assumption and residual fuels protocol means that when measuring progress against the targets, ATFs will have a reduced burden with regard to the materials/components that they do have to record. It is important to note that whilst, from the point of view of completing this return to BIS, assumptions can be made in certain areas, this does not affect an ATFs obligations to carry out the depollution of every vehicle in line with the legal requirements. Obligated parties may, if they prefer, use different base-line figures from the ones that BIS derived from the shredder trial. For instance, an ATF that specialises in smaller vehicles may find that their average weight is significantly less than the 971kg average derived from the trial and decide to use their own average figure instead. Parties that decide to take this approach should be aware that they may be asked to support their calculations with evidence.

Regulation 19 – Certificate of Compliance

138. The certificate of compliance, at Schedule 4 to the Regulations, sets down the form in which a producer or an ATF must declare compliance with the recovery and recycling obligations.

Regulation 20 -- Approval of persons to issue certificates of compliance

139. This regulation defines the persons able to submit certificates of compliance under Regulation 19.

Note: The requirement for obligated parties to submit details of their performance in respect of re-use, recycling and recovery is one of the issues substantially amended by the ELV (Producer Responsibility) (Amendment) Regulations 2010.

Regulation 21 – Public Register

140. This regulation sets down the purpose and operation of the public register, to be maintained by the Secretary of State, to contain information about producers' declarations of responsibility for vehicles and compliance with their recovery and recycling obligations.

Regulation 22 – Entry and Inspection

141. This regulation refers to the powers of entry and inspection available to the Secretary of State and any other person whom he considers suitable and whom he has authorised in writing to act on his behalf. The powers are set down in detail in Schedule 6.

Offences

Regulation 23 -- Offences

142. Regulation 23(1) (2) (3) and (4) list the requirements of the Regulations which, if not complied with, would cause a producer to be guilty of an offence.

Regulation 24 – Enforcement

143. This regulation explains that it is the duty of the Secretary of State for Business, Enterprise and Regulatory Reform (now BIS) to enforce these Regulations and that he may appoint the Environment Agencies, as appropriate, to carry out such enforcement duties on his behalf.

Regulation 25 – Penalties

144. Persons found guilty of an offence under these Regulations will be liable on summary conviction to a fine not exceeding the statutory maximum (£5,000), or, on conviction on indictment, to a fine (unlimited).

Regulation 26 – Power of the Secretary of State to enter into agreements

145. This regulation gives the Secretary of State powers to enter into Agreements with producers in order to achieve certain objectives of the Directive, including the prevention of waste from vehicles, and the reuse, recycling and recovery of ELVs.

Regulation 27 – Enforcement of Agreements

146. This regulation describes the consequence of failure to comply with the terms of any agreement under Regulation 26, and defines the penalties faced by those found guilty of an offence.

Regulation 28 – Amendments to the End-of-Life Vehicles Regulations 2003

147. This regulation amends the End-of-Life Vehicles Regulations 2003, by altering the way in which they apply to three-wheeled motor vehicles. It also rescinds, from 1 January 2007, the system of take-back for vehicles put on the market on or after 1 July 2002, to coincide with the introduction of the new producer responsibility requirements described in previous paragraphs.

148. The regulation also specifies that CoDs may only be issued by ATFs, and that they must be in a form approved by the DVLA.

Schedule 1

149. Information to be contained in an application for producer registration.

Schedule 2

150. Matters which the Secretary of State may take into account in reaching a decision under Regulation 8(1).

Schedule 3

151. Information to be contained in an application for approval of a collection system.

Schedule 4

152. Information in the certificate of compliance (relating to recycling/recovery performance).

Schedule 5

153. Public Register (of vehicle producers).

Schedule 6

154. Powers of entry and inspection of premises exercisable by the Secretary of State and persons authorised under Regulation 22.

THE END-OF-LIFE VEHICLES REGULATIONS 2010

BIS Guidance Covering the two sets of Regulations

Entry into Force

155. The Regulations come into force on 1 July 2010.

General information

156. The End-of-Life Vehicles (Amendment) Regulations 2010 amend certain aspects of the 2003 Regulations – most significantly:

- Revision of a technical schedule;
- Making it clearer to whom the schedule applies;
- Amending certain disclosure requirements.

157. The End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010 amend the 2005 Regulations as follows:

- By harmonising the way in which ATFs and vehicle producers report on their recycling/recovery achievement;
- By extending the deadline by which the above report has to be sent.

The End-of-Life Vehicles (Amendment) Regulations 2010

158. Regulation 2(2)(a) updates the definition of EEA states in line with developments since the original legislation was published.

159. Regulation 2(2)(b) inserts definitions of “enforcement authority” and “enforcement officer”.

160. Regulation 2(2)(c) transposes Article 4 of Regulation (EC) No. 1272/2008 in order to update the definition of “hazardous substance” in line with developments since the original legislation was published. (See Directive 2008/112/EC of the European Parliament and of the Council of 16 December 2008 amending Council Directives 76/768/EEC, 88/378/EEC, 1999/13/EC and Directives 2000/53/EC, 2002/96/EC and 2004/42/EC of the European Parliament and of the Council in order to adapt them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.) This particular amendment takes effect from 1 December 2010.

161. Regulation 2(3) makes it clear that the “heavy metals” restrictions not only apply to vehicle producers when they make new vehicles, but also to those that place replacement components onto the market for the same vehicles. Although

the original guidance for the 2003 Regulations explained that this was intended, the Regulations themselves were considered to be unclear in this respect.

162. This part of the Regulations also amends the ELV Regulations 2003 by removing the need for national legislation to be amended each time there is an amendment to Annex II of the Directive (which is reviewed periodically in line with technical developments). This means that when amendments to Annex II are agreed between EU member States and published by the European Commission, they will take direct effect in the UK. Amendments to Annex would normally be expected to be published on the Commission's own web site at:

http://ec.europa.eu/environment/waste/elv_index.htm

163. Since the Directive was first published, subsequent Commission Decisions (2002/525/EC, 2005/438/EC, 2005/673/EC, 2008/689/EC and 2010/115/EU) relating to Annex II of the Directive make it clear that the exemptions from the heavy metals restrictions that applied to components in new vehicles, are also applied to equivalent replacement components. For instance, the exemption for hexavalent chromium in corrosion preventative coatings that for new vehicles lasted until 1 July 2007, also applies to equivalent replacement components for those vehicles (but not replacement parts for vehicles that were placed on the market after that date). The second column of the Annex II table now sets out this clearly for each relevant exemption.

164. Regulation 2(8) amends the powers of entry and inspection by the enforcement authority in order to bring the regulations more closely into line with the subsequent ELV 2005 Regulations.

165. Regulation 2(13) removes certain disclosure requirements since adequate protection in this area is provided for under the Vehicle Excise and Registration Act 1994 to which the 2003 ELV Regulations refer.

The End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010

166. Regulation 2(5) introduces a requirement that in order to report recycling/recovery performance, obligated parties (vehicle producers and ATFs) must do so in a format published by the Secretary of State. This is essentially the same format that BIS has been providing to obligated parties in previous years as being the most straightforward way for obligated parties to calculate their performance. Requiring that it be used has a number of benefits. It means that the Department can be sure that all parties understand the information they need to collect, and reduces the burden on them resulting from BIS pursuing inadequate submissions. It ensures that obligated parties use the same method of calculation, enables information to be collated more successfully, and allows BIS to report annual UK performance in line with the Commission Decision relating to member States' reporting obligations.

167. Regulation 2(6) extends the date by which the details of recycling/recovery performance must be sent to BIS from 1 April each year, to 1 July.

168. Regulation 2(7) makes an amendment to provide that where a producer or an owner or operator of an ATF is obliged to send a certificate of compliance to BIS, the certificate must be submitted on behalf of that producer, owner or operator by a specified individual.

169. Regulation 2(8) removes the power in the 2005 Regulations for the Secretary of State to approve each person who is authorised to submit a certificate of compliance.

Contact point for further information on the Regulations

Department for Business, Innovation and Skills

1 Victoria Street
London SW1H 0ET

Contact: Peter Cottrell
peter.cottrell@bis.gsi.gov.uk
Tel: 0207 215 1330

Environmental and Technical Regulation Directorate

<http://www.bis.gov.uk/policies/business-sectors/environmental-and-technical-regulations/elv-regulations>

June 2010

URN 10-897