



Brussels, 28 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF TYPE-APPROVAL OF CERTAIN VEHICLES AND ENGINES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'.³

Preparing for the withdrawal is not just a matter for EU and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.⁴

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural and forestry vehicles⁵, Regulation (EU) No 168/2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles⁶, and Regulation (EU) No 2016/1628 on requirements relating to gaseous and particulate pollutant

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

⁴ For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

⁵ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles, OJ L 60, 2.3.2013, p. 1.

⁶ Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles, OJ L 60, 2.3.2013, p. 52.

emission limits and type-approval for internal combustion engines for non-road mobile machinery⁷ (hereafter "**the Regulations**") will no longer apply to the United Kingdom as of the withdrawal date.

This notice is relevant for **vehicles and engines within the scope of the Regulations and placed on the EU-27 market⁸ as from the withdrawal date.**

A separate notice has been issued concerning the legal consequences of the United Kingdom's withdrawal with respect to vehicles falling within the scope of Directive 2007/46/EC⁹ (motor vehicles).¹⁰

1. CONSEQUENCES FOR THE IDENTIFICATION OF ECONOMIC OPERATORS

Pursuant to Articles 8(4) and 8(5) of Regulation (EU) No 167/2013, Articles 9(4) and 9(5) of Regulation (EU) No 168/2013, and Articles 8(10) and 8(11) of Regulation (EU) No 2016/1628, respectively, manufacturers established outside the Union must appoint a single representative established in the Union to represent them before the Member State type-approval authorities and for the purposes of market surveillance.

Manufacturers' representatives established in the United Kingdom will not, as from the withdrawal date, be considered as established in the Union for the purposes of the aforementioned Articles. Therefore, to the extent that the Regulations are still relevant to their activities, manufacturers established outside the Union are advised to take the necessary steps to ensure that, as from the withdrawal date, their appointed representatives are established in the EU-27.

2. CONSEQUENCES FOR TYPE-APPROVALS AND TYPE-APPROVAL AUTHORITIES

Vehicles within the scope of Regulations (EU) No 167/2013 and (EU) No 168/2013 may only be placed on the market, registered or entered into service if they are accompanied by a valid certificate of conformity issued by the manufacturer attesting that the vehicles have been manufactured in conformity with the EU type-approval granted by a Member State authority.¹¹

⁷ 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, OJ L 252, 16.9.2016, p.53.

⁸ The concept of placing on the market refers to each individual product and not to types of products, and whether it was manufactured as an individual unit or in series. For more information on the concept of placing on the market, see Chapter 2 of Commission Notice 2016/C 272/01 "The Blue Guide on the implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1 (hereinafter referred to as "the Blue Guide").

⁹ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, OJ L 263, 9.10.2007, p. 1.

¹⁰ "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of type-approval of motor vehicles", published on 8.2.2018 and available here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

¹¹ Cf. Articles 33 and 38 of Regulation (EU) No 167/2013 and Articles 6(2), 38 and 43 of Regulation (EU) No. 168/2013.

Regulations (EU) No 167/2013 and (EU) No 168/2013 define "approval authority" as *"the authority of a Member State established or appointed by the Member State and notified to the Commission by the Member State with competence for all aspects of the approval of a type of vehicle, system, component or separate technical unit, for the authorisation process, for issuing and, if appropriate, withdrawing or refusing approval certificates, for acting as the contact point for the approval authorities of other Member States, for designating the technical services and for ensuring that the manufacturer meets his obligations regarding the conformity of production"*.¹²

Engines for non-road mobile machinery within the scope of Regulation (EU) No 2016/1628 or non-road mobile machinery in which such engines are installed may only be placed on the market if the engine is covered by a valid EU type-approval.¹³

Regulation (EU) No 2016/1628 defines "approval authority" as *"the authority of a Member State established or appointed by the Member State and notified by it to the Commission and which has competence for: (a) all aspects of the EU type-approval of an engine or of an engine family; (b) the authorisation process; (c) granting and, where appropriate, withdrawing or refusing EU type-approval and issuing EU type-approval certificates; (d) acting as the contact point for the approval authorities of other Member States; (e) designating the technical services; and (f) ensuring that the manufacturer meets its obligations regarding conformity of production."*¹⁴

As from the withdrawal date, the Regulations will cease to apply to the United Kingdom. This means that, as from that date, the United Kingdom approval authority will cease to be an EU type-approval authority under the Regulations. As a result, it will not be possible as from the withdrawal date for a manufacturer to place on the Union market:

- (i) vehicles within the scope of Regulations (EU) No 167/2013 and (EU) No 168/2013 accompanied by a certificate of conformity referring to a type-approval granted by the United Kingdom approval authority formerly competent under EU law;
- (ii) engines for non-road mobile machinery or non-road mobile machinery in which such engines are installed for which a type-approval was granted by the United Kingdom approval authority formerly competent under EU law.

The United Kingdom approval authority will no longer be in a position to perform any of the functions and activities of an approval authority for the purposes of the Regulations with respect to type-approvals it granted prior to the withdrawal date. Moreover, the United Kingdom approval authority will no longer be able to issue revisions or extensions to such approvals on the basis of Article 30 of Regulation (EU) No 167/2013, Article 35 of Regulation (EU) No 168/2013 or Article 28 of Regulation (EU) No. 2016/1628, respectively.

¹² See Article 3, point 27 of Regulation (EU) No 167/2013; Article 3, point 56, of Regulation (EU) No 168/2013.

¹³ Cf. Article 5(3) of Regulation (EU) No 2016/1628.

¹⁴ Article 3, point 55, of Regulation (EU) No 2016/1628.

With respect to type-approvals granted by the United Kingdom authority prior to the withdrawal date, the Commission is considering the necessary and appropriate steps to ensure and facilitate continued compliance with EU law.

The website of the Commission on automotive industry (https://ec.europa.eu/growth/sectors/automotive_en) provides general information concerning Union harmonisation legislation applicable to type-approval of motor vehicles. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs