



Department  
for Transport

# Motorcycles

## Changes to the type approval regime for new motorcycles

### Government Response

September 2017

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# Foreword

The consultation sought views on the implementation of EU Regulation (168/2013) governing the European type approval framework for motorcycles, tricycles, quadricycles, and some power assisted pedal cycles. This Regulation introduced higher road safety and environmental standards for such vehicles.

Generally the consultation was well-received and our proposals were supported. In particular, respondents were content that it was correctly transposing the EU Regulation.

Consultees also raised some issues about implementation timescales and mandatory requirements for ABS.

There was substantial support for penalties for supplying a vehicle with a defeat device, with some reservations in relation to penalising dealers who would not have the ability to detect such devices. While this aspect is not being taken forward in the new legislation, the topic is under consideration for a wider range of vehicles and may be implemented at a later date.

This consultation provided the opportunity to gather stakeholders' views as to the different models and options for the approval of these types of vehicles after our Exit from the European Union. These views will inform our continuing work to offer business and other stakeholders as much certainty as possible as we leave the EU.

**Jesse Norman MP**

*Parliamentary Under Secretary of State for Transport*

# 1. Introduction

- 1.1 The type approval regime for motorcycles is regulated under EU Regulation 168/2013. The regulations are vital to ensure high safety and environmental standards, and to minimise costs whilst maintaining market access for manufacturers in the motorcycle, tricycle and quadricycle markets.
- 1.2 The main issue under consideration in the consultation was the introduction of penalties for non-compliance with EU Regulation 168/2013 in domestic law, with both civil and criminal penalties being proposed.
- 1.3 As well as implementation of EU Regulation 168/2013, the consultation covered our proposal to make the supply of vehicles fitted with defeat devices an offence, and the potential for application of penalties to different parties in the supply chain.
- 1.4 The scope of the consultation (and the responses detailed in this report) cover both Great Britain and Northern Ireland. The consultation ran for 6 weeks from 26 July 2017 to 6 September 2017.

## Responses

- 1.5 The Department received 17 responses. The responses were from both individuals, businesses and other organisations, split as follows:

| <b>Organisation</b> | <b>Number of responses</b> |
|---------------------|----------------------------|
| Individuals         | 7                          |
| Businesses          | 3                          |
| Trade bodies        | 4                          |
| Public bodies       | 3                          |

- 1.6 In quantifying the responses to questions 1, 2 and 4 in this document, the total results figures are indicated by respondents whom answered the questions directly. The second set of figures, labelled as 'presumed', are included where the respondent did not specifically answer the question, but gave a strong indication of opinion in the body of their response.

- 1.7 Table of questions

|           |                                                                                                                                                                                       |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Q1</b> | Are you content with the draft regulations (Statutory Instrument) at Annex B?                                                                                                         |
| <b>Q2</b> | Do you agree that the draft regulations would not impose a new burden on business, beyond that imposed by the underlying EU Regulation?                                               |
| <b>Q3</b> | Are there any areas of the EU Regulation 168/2013 that you are not content with?                                                                                                      |
| <b>Q4</b> | Are you content with the proposal to create penalties around use of defeat devices, both for designing a vehicle using such a device and for supplying a vehicle using such a device? |

|           |                                                                         |
|-----------|-------------------------------------------------------------------------|
| <b>Q5</b> | Do you have any other comments on implementation?                       |
| <b>Q6</b> | What would you like to see in this area of regulation following Brexit? |

- 1.8 We also consulted on the implementation of a parallel Agricultural Vehicles framework regulation. That consultation and the government response can be viewed at the following link:

<https://www.gov.uk/government/consultations/agricultural-vehicles-implementing-eu-regulation-1672013>

## Next steps

- 1.9 The Motorcycles (EU Type Approval) Regulations 2018 will be laid in Parliament in due course.

## EU Referendum

- 1.10 The government triggered Article 50 of the Treaty on European Union on 29th March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in the future once the UK has left the EU.

## 2. Responses in detail

### *New domestic regulations*

Q1: Are you content with the draft regulations (Statutory Instrument) at Annex B?

| Q1        | No. Respondents |
|-----------|-----------------|
| Yes       | 5 (+2 presumed) |
| No        | 3 (+2 presumed) |
| No answer | 5               |

- 2.1 The majority of respondents to this question - 58% including presumed answers - were content with the draft regulations (Statutory Instrument) for motorcycles in principle.
- 2.2 Positive responses generally indicated that the current EU type approval scheme and associated regulations are sufficiently developed and fit-for-purpose. The value to be found in essentially maintaining the status quo was attributed to the moderate size of the UK market and by comparison to the potential costs were manufacturers and supply chains required to adapt to a potentially separate regime.
- 2.3 For those not content, the main objection was not so much to the regulations but to the EU law behind them. There were several objections to the decision, during the development and negotiation of EU Regulation 168/2013, to make Anti-lock braking (ABS) compulsory on bikes over 125cc for safety reasons.
- 2.4 Three of the negative responses appear to be based on the research of one individual. The main objection of these respondents to ABS seems to be that some manufacturers have implemented it in a way that makes maintenance more costly, for example by using different, more expensive brake lines compared to bikes without ABS and recommending regular replacement of them.
- 2.5 The individual mentioned above also objected to the requirement for limited power motorcycles of the type used by learners to be tamper proof, which he felt forces the purchase of a larger capacity motorcycle once a rider has passed their test. In fact Regulation 168/2013 permits manufacturers to design motorcycles in one restricted category (L3-A2) in such a way that they can be de-restricted (to category L3-A3), but only by that manufacturer.
- 2.6 There were also two objections to something which was not proposed in the consultation: a new requirement for MSVA testing for motorcycles customised after registration. In fact the current DVLA rules on "rebuilt" and "radically altered" bikes are remaining the same, under which certain criteria are applied to decide whether a

modified bike can retain the same identity and registration mark, see for example: <https://www.gov.uk/vehicle-registration/rebuilt-vehicles>

## Options under EU regulation

Q2: Do you agree that the draft regulations would not impose a new burden on business, beyond that imposed by the underlying EU Regulation?

| Q2        | No. Respondents |
|-----------|-----------------|
| Yes       | 6               |
| No        | 3               |
| No answer | 8               |

- 2.7 A majority of respondents to this question - 67% - indicated that the draft regulations would not create a significant burden on business over the existing EU regulation.
- 2.8 Issues highlighted by respondents included comments similar to those at paragraph 2.5 above, which as noted is not being proposed.
- 2.9 Several comments raised the potential of a transitional/implementation period, in order to allow vehicle manufacturers and dealerships to respond to any regulatory changes. This was proposed largely due to lead-in times for design or process changes in the manufacture of vehicles, and for dealerships, the sale of existing vehicle stock.

Q3: Are there any areas of the EU Regulation 168/2013 that you are not content with?

- 2.10 Many of the responses to Q3 of the consultation crossed over with the potential burdens raised by respondents, as detailed above for Q2.
- 2.11 Respondents indicated some concern with the financial costs of compliance with the EU type approval regime, which it was suggested did not adequately reflect the customer requirements of the UK market.
- 2.12 There were some objections to the provision for mandatory combined braking or anti-lock braking systems on motorcycles on the grounds that new riders under training will not get the experience of an independently braked motorcycle prior to passing their test. Consultees suggested a series of exceptions - for example training, off-road and motorsport. Motorsport Trials and Enduro markets were highlighted as a particular concern against potential ABS requirements.
- 2.13 ABS was also raised as an issue in cost terms, and whilst this may have a lesser impact on larger manufacturers, smaller manufacturers may be subject to a disproportionately high cost in order to comply with the mandatory requirement.
- 2.14 There was also concern that mandatory ABS requirements may lead to an increased safety risk where inexperienced riders push motorcycles beyond their own capability.



## Defeat device penalties

Q4: Are you content with the proposal to create penalties around use of defeat devices, both for designing a vehicle using such a device and for supplying a vehicle using such a device?

| Q4        | No. Respondents |
|-----------|-----------------|
| Yes       | 5 (+1 presumed) |
| No        | 3 (+1 presumed) |
| No answer | 7               |

- 2.15 7 consultation response submissions did not provide a clear response to this question.
- 2.16 Of those that did respond, 60% were content with the proposal to apply penalties around the use of defeat devices in principal.
- 2.17 A significant number of these respondents caveated their support for defeat device penalties with the proviso that consumers or end-users should be exempted, as they were unlikely to hold the knowledge to recognise when such devices were fitted to vehicles they were handling.
- 2.18 A similar issue was raised several times with regard to the application of penalties to dealerships and importers, in that no penalty should be applicable - primarily on the basis that defeat devices should be detected during the type approval process.
- 2.19 A further proposal made was that where applicable, supply chain companies and dealerships should face lower penalty than would be applied to a manufacturer were a defeat device to be detected. This approach would reflect the relative lack of knowledge and expertise to recognise when such devices have been installed.
- 2.20 A number of respondents expressed the view that actors at all stages of the supply chain should be held responsible, and be liable for penalties, should a defeat device be found.
- 2.21 Several responses suggested that the proposed defeat device penalties did not go far enough, and that increased market surveillance requirements should be included as a part of this.
- 2.22 There was a concern expressed that new penalties would prevent users modifying their bikes, this is not the case. "Defeat device" is a term that in this context purely relates to a device or software fitted by the manufacturer prior to approval and first registration.

## Other issues

Q5: Do you have any other comments on implementation?

- 2.23 Respondents raised concern regarding the uncertainties and lead-in time associated with implementation, particularly in the context of managing the registration of existing trials and enduro motorcycle stock held by manufacturers.

- 2.24 In the short-term, suggestion was made of a transition period, allowing for manufacturers and dealers to respond to any changing legislative requirements and route to market, including sale and registration, of existing manufactured stock.
- 2.25 Without a transition, concern was raised with regard to both the costs and the logistical issues associated with MSVA for older stock.
- 2.26 There was a suggestion to encourage or require manufacturers to fit crime prevention measures, as the current compulsory steering locks were alleged to be ineffective. Suggestions included electronic immobilisers as fitted to all new cars.
- 2.27 Some opposition was raised by respondents to trials motorcycles being prevented from registration for on-road use. A proposed solution was to amend MSVA regulations to support a basic level of inspection for trials motorcycles, and further that self-certification with rider liability could also be implemented, in proportion with the level of safety risk posed.
- 2.28 There were mixed opinions regarding the imposition of type approval requirements on power-on-demand ("Twist and Go") Electrically Assisted Pedal Cycles (EAPC), although respondents were pleased that licencing and annual testing requirements were not being introduced, as under domestic law these remain EAPCs.

**Q6: What would you like to see in this area of regulation following Brexit? Do you have any views on whether the UK should continue to follow this approval scheme after Brexit?**

- 2.29 A substantial number of respondents suggested that they were in favour of maintaining regulatory alignment in this area with the EU following exit, rather than setting bespoke UK standards. This was primarily on the basis of minimising costs for industry, and maintaining consumer choice. There were concerns raised that any potential divergence in regulations might impact on the range of models manufacturers might choose to offer in the UK after exit.
- 2.30 The need for continuity and certainty after the UK's exit from the EU was also raised in the context of EAPCs, suggested to be particularly vulnerable to impact due to the developing market.
- 2.31 There was support amongst respondents for developing the low volume small series markets in the UK after exit, and suggested simplification of MSVA, primarily in order to reduce costs of compliance for small or start-up manufacturers and open up the market for greater opportunities.

## 3. Conclusion - Government Response

- 3.1 Following publication of this response, the Department for Transport intends to proceed to make and lay a Statutory Instrument, the Motorcycles (EU Type Approval) Regulations 2018.
- 3.2 This will implement EU Regulation 168/2013, governing the European type approval framework for motorcycles, tricycles, quadricycles, and some power assisted pedal cycles. The only changes to the regulations following consultation have been amendments to legal terminology and to reflect latest Court procedures, mainly affecting Scotland and Northern Ireland.
- 3.3 The Department remains satisfied that the EU type approval regime, when considered alongside the domestic Motorcycle Single Vehicle Approval scheme, is sufficient and that there is no necessity for a domestic type approval regime for motorcycles, tricycles, quadricycles, and power-assisted pedal cycles.
- 3.4 On Defeat devices, there was support for penalties for supplying a vehicle with a defeat device, alongside strong opposition to penalising end-users or dealers, as it was suggested that neither have the ability to detect such devices.
- 3.5 The work on defeat devices continues with consultations continuing on other vehicle categories. The regulations being laid before Parliament on Motorcycles do not contain any defeat device penalties as the policy is still being developed. It is possible that a new offence could be introduced as a single piece of legislation covering several vehicle categories, for consistency.
- 3.6 Responses raised as a result of question 6, concerning other suggestions for post EU Exit regulation in the market, will be evaluated separately and taken forward as relevant. Stakeholders were of the view that the technical requirements in the Regulations are appropriate and of a high standard. In general the stakeholder consensus was that the UK should prioritise avoiding placing additional burdens on industry.