

(GROW)

From: [REDACTED] (ENTR)
Sent: 02 April 2013 09:10
To: [REDACTED] (ENTR); [REDACTED] (ENTR)
Subject: FW: Application of Article 46 of directive 2007/46/EC

From: [REDACTED] [mailto:[REDACTED]@dft.gsi.gov.uk]
Sent: Friday, March 22, 2013 1:02 PM
To: [REDACTED]; [REDACTED] (ENTR); [REDACTED] (ENTR); [REDACTED] (ENTR)
Cc: [REDACTED]; [REDACTED]; [REDACTED]
Subject: RE: Application of Article 46 of directive 2007/46/EC

Dear [REDACTED],

As mentioned in my e-mail of 28th February, the UK's notification regarding Directive 2007/46/EC referred to the Road Vehicles (Approval) Regulations 2009 (SI 2009/717) as transposing that Directive and regulation 33 of those Regulations provides for the penalising of infringements of the Directive. I have included at the base of this email a copy of the notification and reference details (MNE(2009)51630).

Regulation 33 makes it an offence (leading to a fine on conviction) for a manufacturer of a part or equipment capable of posing a significant risk to the correct functioning of essential systems to allow the sale or entry into service of that part or equipment unless authorised by an approval authority. This penalises infringement of Article 31 of the Directive. Regulation 33 also makes it an offence (again leading to a fine on conviction) for a manufacturer not to immediately inform the approval authority if a recall under Article 32 of the Directive applies to that manufacturer. This penalises infringement of Article 32(1) of the Directive. Under this regulation holders of type approval are also compelled to comply with any undertakings given to the type approval authority to carry out tests to ensure conformity of production, and keep records of the results of those tests for 10 years from the date of testing. In addition, regulation 33 penalises (including by imprisonment) acts of deception by way of forgery or false statement in relation to approval and conformity certificates.

Furthermore, regulation 11 makes it an offence to supply for road use a motor vehicle trailer which does not have a conformity or approval certificate. This penalises infringement of Articles 4 and 26 of the Directive regarding the sale and entry into service of such trailers.

In my e-mail I also mentioned the inability to register a vehicle in the UK if it has not been properly type-approved and this was intended to be with reference in particular to the sanction for ensuring that, in accordance with Article 26 of the Directive, only type approved motor vehicles are registered, sold or put into service. The licensing of a motor vehicle is in fact a pre-requisite to it being registered and regulation 6 (again of the 2009 Regulations) prohibits the grant of a first licence in respect of a motor vehicle if it does not have a conformity or approval certificate. Under section 29 of the Vehicle Excise and Registration Act 1994 it is an offence to use or keep an unlicensed vehicle and the commission of this offence results in an excise penalty-which is akin to a fine.

Your letter of 12th February also queried the national penalty provisions in respect of infringement of the provisions of five separate regulations listed in Part I of Annex IV to Directive 2007/46/EC. As these separate regulations are to be complied with in order for a motor vehicle, to which they apply, to be considered as properly having type approval we would regard the primary sanctions for infringement as again being an inability to licence (and hence register) an unapproved motor vehicle and the offence under section 29 of the 1994 Act as mentioned above.

I trust this meets your requirements insofar as detailing the specific legal requirements relating to the UK implementation of the penalty provisions in Directive 2007/46/EC. However, if you should require more detailed information then please let me know.

Best wishes



-----Original Message-----

From: SG-MNE@ec.europa.eu [<mailto:SG-MNE@ec.europa.eu>]

Sent: Monday, April 20, 2009 10:45 AM

To: [Redacted] * UKRep Brussels - CONF

Cc: SG-MNE@ec.europa.eu

Subject: UK - This message has been generated automatically by the Electronic Notification System of the Secretariat general of the Commission.

Herewith the Secretariat general of the Commission acknowledges receipt of your communication entitled :

Member state		UK		
Name		[Redacted]		
First name		[Redacted]		
Date of notification (dd/mm/yyyy)		20/04/2009		
Directive	Deadline	Transposition complete for this deadline (reserved for Central Manager only)	Declaration of transposition	Comment
32007L0046	28/04/2009	Yes	Complete	This completes transposition for the UK Member State
Official publication reference				
Type of act		Statutory instrument (SI)		
Number				
Date of entering into force				
Date of approval		24/03/2009		

The communication has been given the following reference n°: : MNE(2009)51630

From: [Redacted]
Sent: 28 February 2013 18:08

To: [redacted]@ec.europa.eu'; [redacted]@ec.europa.eu; [redacted]@ec.europa.eu
Cc: [redacted]; [redacted]; [redacted]
Subject: Application of Article 46 of directive 2007/46/EC

Dear [redacted],

You wrote to Member States on 12 February 2013 seeking clarification regarding the application of the penalty provisions contained in Article 46 of the framework directive 2007/46/EC. The UK notified the full implementation of the directive to the Commission services in early 2009 and the UK national Regulations are referenced as The Road Vehicle (Approval) Regulations (Statutory Instrument 2009 No. 717). Regulation 33 of the regulations deals with the Article 46 provisions, and covers matters such as forgery and false statements. In addition, penalties related to infringement of the requirements relating to trailer entry into service, are contained in Regulation 11.

Regarding entry into service of motor vehicles, there are no specific penalties because it is not possible to register a vehicle in the UK without the correct valid type approval certificate (and false statements, forgeries are covered as mentioned above).

Unfortunately I have not been able to devote adequate time to finalise the details relating to the other regulations you highlighted in your letter but will seek to have a complete reply to you by 11 March 2013.

Please accept my apologies for not providing the fullest possible reply within you deadline.

Best wishes,

[redacted]

[redacted] | [redacted] - International Vehicle Standards Division | Department for Transport | Telephone: [redacted]
| mobile: [redacted] | www.dft.gov.uk

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