



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2015) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

amending Delegated Regulation (EU) No 3/2014, Delegated Regulation (EU) No 44/2014 and Delegated Regulation (EU) No 134/2014 with regard, respectively, to vehicle functional safety requirements, to vehicle construction and general requirements and to environmental and propulsion unit performance requirements

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The term ‘L-category vehicles’ covers a wide range of light vehicle types with two, three or four wheels, e.g. powered cycles, two- and three-wheel mopeds, two- and three-wheel motorcycles, motorcycles with side-cars and four-wheel vehicles (quadricycles) such as on-road quads, all-terrain vehicles and quadrimobiles.

Directive 2002/24/EC¹ and its implementing Directives listed in its Annex I, which is the approval package for L-category vehicles in force, is repealed by 31 December 2015 and subsequently replaced by Regulation (EU) No 168/2013² and its four delegated and implementing acts.

The European Commission has kept track of flaws in Regulation (EU) No 168/2013 and its four delegated and implementing acts during the period March 2013 to 31 January 2015 in dedicated tracking lists that are regularly updated. Also questions on interpretation of the text which were raised by stakeholders and authorities during this period and associated replies from the Commission have been collected since March 2013. As L-category vehicles could already be approved on a voluntary basis in accordance with Regulation (EU) No 168/2013 as of 22 September 2014 any change of the wording deemed necessary to improve clarity of the text in the delegated acts has been included in this amending act.

In order to ensure continuous improvement and adaptation to technical progress of this new legal package to approve L-category vehicles, which is applicable on a mandatory basis as of 01 January 2016, and to address some flaws in the three delegated acts supplementing Regulation (EU) No 168/2013 containing technical requirements and test procedures, this amending act has been compiled and is proposed for adoption at the earliest possible delay.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

(a) Consultation of interested parties

Regularly the evolving tracking lists with flagged errors, interpretation questions and comments have been shared with the participants of the Motor Cycle Working Group (MCWG) meetings and have been discussed at length.

The consultation targeted the groups most affected, including type-approval authorities, manufacturers, suppliers and consumers.

The Commission has acknowledged the receipt of all questions from stakeholders, and these plus the replies from the Commission have been made publicly available.

Not only EU stakeholders have been consulted but also internationally at the level of the UNECE with contracting parties to the 1958 and 1998 Agreements have been requested to review the text and the tracking lists and to provide comments. Additional questions raised by these international stakeholders and answers from the Commission have been included in the tracking lists, which form the basis of this amending act.

(a) Consultation methods, main sectors targeted and general profile of respondents

The Commission consulted stakeholders in a number of ways:

The public consultation, covering possible controversial aspects of the Codecision proposal, took place on the internet between 22 December 2008 and 27 February 2009. Reactions were received from

¹ OJ L 124, 9.5.2002, p. 1

² OJ, L60, 2.3.2013, p. 52

Member States, the L-category vehicle and component manufacturing industry, transport organisations, user organisations, other non-governmental organisations and private individuals as well as from international stakeholders under the umbrella of the UNECE.

The contents of the draft Codecision proposal and its supplementing draft delegated and implementing acts before adoption were discussed in all the meetings of the Commission's Working Group on L category vehicles (MCWG) in the period 2009 - 2013. The same approach has been followed with respect to some concerns that prevent flawless implementation of Regulation (EU) No 168/2013 from 2013 onwards to date that are addressed in this amending act.

Finally, many bilateral meetings were held in which individual stakeholders could freely express their views and raise issues. All those elements that need improvement to make this new package work in daily practice have been incorporated in this amending act.

(b) Impact assessment

As this amending act only concerns changes seeking to clarify the text of the delegated acts supplementing Regulation (EU) No 168/2013 and improving wording in order to ensure flawless approvals in a timely manner without changing the intention of the base measures assessed in the base impact assessment conducted back in 2009, it was not deemed necessary to conduct a supplemental impact assessment in support of this amending act. The results of the impact assessment³ carried out in support of adopting Regulation (EU) No 168/2013 and its delegated and implementing acts remain valid.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

(a) Legal basis

The legal basis of this delegated act is 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.

(b) Choice of instruments

The use of a Regulation is considered to be appropriate in that it provides the required assurance for compliance while not requiring transposition into Member States' legislation.

The delegated act uses the 'split-level approach' originally introduced at the request of the European Parliament and used in other legislation for EU type-approval of motor vehicles. This approach provides for legislation in three steps:

- the fundamental provisions and scope are laid down by the European Parliament and the Council in Codecision Regulation (EU) No 168/2013 based on Article 114 TFEU in accordance with the ordinary legislative procedure;
- the technical specifications associated with the fundamental provisions are laid down in three delegated acts (Article 290):
 - Commission Delegated Regulation (EU) No 3/2014 of 24 October 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to vehicle functional safety requirements for the approval of two- or three-wheel vehicles and quadricycles is amended in accordance with Annex I to this Regulation.
 - Commission Delegated Regulation (EU) No 44/2014 of 21 November 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the vehicle construction and general requirements for the

³ SEC(2010) 1152

approval of two- or three- wheel vehicles and quadricycles is amended in accordance with Annex II to this Regulation.

- Commission Delegated Regulation (EU) No 134/2014 of 16 December 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to environmental and propulsion unit performance requirements and amending Annex V thereof is amended in accordance with Annex III to this Regulation.
- the administrative provisions regarding the information document, the definitions in the type-approval certificate, the certificate of conformity and associated production conformity requirements, etc. are laid down in:
 - Commission Implementing Regulation (EU) No 901/2014 of 18 July 2014 implementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the administrative requirements for the approval and market surveillance of two- or three-wheel vehicles and quadricycles.

Clarifying amendments of the delegated and implementing acts shall follow the same adoption procedures as the base delegated and implementing acts. Consequently this delegated act seeking to amend the three base delegated acts to Regulation (EU) No 168/2013 shall be adopted in accordance with the advisory procedure.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 quadricycles⁴, and in particular Article 18(3), Article 20(2), Article 21(5), Article 22(5), Article 23(12), Article 24(3), Article 25(8) and Article 54(3) thereof,

Whereas:

- (1) The Commission has kept track of issues encountered and pointed out by approval authorities and stakeholders in Regulation (EU) No 168/2013, as well as Commission Delegated Regulation (EU) No 3/2014⁵, Commission Delegated Regulation (EU) No 44/2014⁶ and Commission Delegated Regulation (EU) No 134/2014⁷ supplementing Regulation (EU) No 168/2013; in order to ensure accurate application of those Regulations, some of the issues identified should be addressed by way of amendments.
- (2) In order to ensure consistency and effectiveness of the EU type-approval system for L-category vehicles, it is necessary to continuously improve the technical requirements and test procedures set out in those delegated acts and adapt them to technical progress. It is also necessary improve the clarity of those delegated acts.
- (3) The following amendments to Delegated Regulation (EU) No 3/2014 with regard to technical requirements and test procedures in the area of vehicle functional safety should be included in the Annexes to that Delegated Regulation with a view to improving its consistency and clarity: the list set out in Annex I to Delegated Regulation (EU) No 3/2014 containing the applicable UNECE Regulations should be updated and its Annex XV on tyre installation should be further clarified by adding the provisions on the manufacturer declaration with respect to the permissibility of the 'category of use' with checks performed

⁴ OJ L 60, 2.3.2013, p. 52.

⁵ Commission Delegated Regulation (EU) No 3/2014 of 24 October 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to vehicle functional safety requirements for the approval of two- or three-wheel vehicles and quadricycles, OJ L 7, 10.1.2014, p.1.

⁶ Commission Delegated Regulation (EU) No 44/2014 of 21 November 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the vehicle construction and general requirements for the approval of two- or three- wheel vehicles and quadricycles, OJ L 25, 28.1.2014, p.1.

⁷ Commission Delegated Regulation (EU) No 134/2014 of 16 December 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to environmental and propulsion unit performance requirements and amending Annex V thereof, OJ L 53, 21.2.2014, p.1.

accordingly. Further clarifications should be added to Annex XVII to Delegated Regulation (EU) 3/2014 regarding interior fittings, to its Annex XVIII with regard to maximum power limitation and to its Annex XIX with respect to structural integrity requirements, in particular those for powered cycles in the scope of Regulation (EU) No 168/2013.

- (4) For the purposes of completeness and accuracy, it is appropriate that the list of UNECE regulations that apply on a compulsory basis set-out in Annex I to Delegated Regulation (EU) No 3/2014 includes UNECE regulations Nos 1, 3, 6, 7, 8, 16, 19, 20, 28, 37, 38, 39, 43, 46, 50, 53, 56, 57, 60, 72, 74, 75, 78, 81, 82, 87, 90, 98, 99, 112 and 113.
- (5) The following amendments to Delegated Regulation (EU) No 44/2014 should be made in order to improve consistency and accuracy: Annex I to Delegated Regulation (EU) No 44/2014 contains a list of applicable UNECE Regulations, which should be updated; Annex II to Regulation (EU) No 44/2014 should be supplemented with respect to marking requirements for parts, equipment and components for the purposes of identification and prevention of tampering; Annex III to that Delegated Regulation should be amended to provide clarifications on the requirements concerning the conversion of vehicles of subcategories L3e/L4e-A2 into A3 motorcycles and *vice versa*; certain amendments should be made in Annex XI to Delegated Regulation (EU) No 44/2014 on masses and dimensions, in particular relating to the ground clearance definition of subcategories L3e-AxE (Enduro motorcycle) and L3e-AxT (Trial motorcycle); Annex XII to Delegated Regulation (EU) No 44/2014 should be amended as regards the standardized on-board diagnostics connection interface; and certain clarifications should be made in Annex XVI to the same Delegated Regulation on stands for these motorcycle subcategories.
- (6) On-board diagnostics ('OBD') is essential for effective and efficient repair and maintenance of vehicles. Accurate diagnostics allow the repairer to identify fast which smallest exchangeable unit has to be repaired or replaced. In order to address the rapid technical developments in the area of propulsion control systems it is appropriate to review the list of devices monitored for electric circuit malfunctions in 2017. By 31 December 2018, it should be established whether additional devices and malfunctions should be added to the list set out in Appendix 2 to Annex XII to Delegated Regulation (EU) No 44/2014 provide sufficient time to the Member States, vehicle manufacturers, their suppliers and the repair industry to adapt before the entry into force of OBD stage II. PID \$1C on the applicable on-board diagnostic system may be programmed to \$00 or \$FF as long as its value has not been standardised for L-category vehicles. For the purposes of consistency and completeness, as the publication date of the revised standard ISO 15031-5:20xx containing such a standardised value dedicated to L-category vehicles, this standardised value should be programmed as response to the PID \$1C request of a generic scan tool.
- (7) For the purposes of completeness and consistency, certain equations should be adapted in Annexes II and V to Delegated Regulation (EU) No 134/2014; in Annex VI to that Delegated Regulation regarding the durability of pollution control devices, the classification criteria of the SRC-LeCV distance accumulation cycle should be adapted to technical progress; finally, Annex IX to Delegated Regulation (EU) No 134/2014 should be amended to take into account some of the anti-tampering provisions set out in UNECE regulations Nos 9, 41, 63 and 92 in the area of sound approval, in particular for multi-mode sound systems.
- (8) One of the measures against excessive hydrocarbon emissions from L-category vehicles is to limit the evaporative emissions to the hydrocarbon mass limits laid down in Annex VI(C) to Regulation (EU) No 168/2013. For this purpose, a type IV test has to be conducted at type-approval in order to measure the evaporative emissions of a vehicle. One of the requirements

of the type IV Sealed House evaporative Emission Determination (SHED) test is to fit either a rapidly aged carbon canister or alternatively to apply an additive deterioration factor when fitting a degreened carbon canister. It will be investigated in the environmental effect study referred to in Article 23(4) of Regulation (EU) No 168/2013 whether or not it is cost beneficial to maintain this deterioration factor as alternative to fitting a representative and rapidly aged carbon canister. If the result of the study demonstrates that this method is not cost-beneficial a proposal will follow in due course to delete this alternative and should become applicable beyond the Euro 5 step.

- (9) A standardised method for measuring vehicles' energy efficiency (fuel or energy consumption, carbon dioxide emissions as well as electric range) is necessary to ensure that no technical barriers to trade arise between Member States and also to ensure that customers and users are supplied with objective and precise information. Until a harmonised test procedure is agreed upon for category L1e vehicles designed to pedal, referred to in Annex I to Regulation (EU) No 168/2013 and in point 1.1.2. of Annex XIX to Delegated Regulation (EU) No 3/2014, those category L1e vehicles should be exempted from the electric range test.
- (10) Delegated Regulation (EU) No 3/2014, Delegated Regulation (EU) No 44/2014 and Delegated Regulation (EU) No 134/2014 should therefore be amended accordingly.
- (11) Given that Regulation (EU) No 168/2013, Delegated Regulation (EU) No 3/2014, Delegated Regulation (EU) 44/2014 and Delegated Regulation (EU) 134/2014 are already applicable and that the amendments to those acts include number of corrections, this Regulation should enter into force as soon as possible,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 3/2014 is amended as follows:

- (1) in Article 3(2), 'Manufacturers' is replaced by 'Manufacturers of parts and equipment';
- (2) the Annexes are amended in accordance with Annex I to this Regulation.

Article 2

Delegated Regulation (EU) No 44/2014 is amended as follows:

- (1) in Article 3(2), 'Manufacturers' is replaced by 'Manufacturers of parts and equipment';
- (2) the Annexes are amended in accordance with Annex II to this Regulation.

Article 3

Delegated Regulation (EU) No 134/2014 is amended as follows:

- (1) Article 2 is amended as follows
 - (a) in point(16), 'exhaust' is replaced by 'exhaust';
 - (b) point (42) is replaced by the following:

"(42) 'maximum thirty minutes speed' of a vehicle means the maximum achievable vehicle speed measured during 30 minutes as a result of the 30 minute power set out in UNECE regulation No 85*;

* OJ L 326, 24.11.2006, p. 55.";

- (2) in Article 3(4), ‘manufacturer’ is replaced by ‘manufacturer of parts and equipment’;
- (3) the Annexes are amended in accordance with Annex III to this Regulation.

Article 4

This Regulation shall enter into force on the first day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Jean-Claude Juncker