Vehicle Certification Agency

Brexit

Frequently Asked Questions

0 NRMM

Q. Are there any UK requirements for Non Road Mobile Machinery (NRMM)?

A. The provisional UK approval scheme does not include NRMM and manufacturers must continue to use valid EU and UNECE approvals. This question arises from earlier communications which indicated that provisional UK approval will be needed for NRMM. The DfT will be consulting later in 2019 on further UK regulations for a full UK approval scheme which are expected to bring NRMM into scope in the future.

1 Trailers

Q. Are there any UK requirements for trailers?

A. The provisional UK approval scheme does not include trailers (other than the existing national small series and individual vehicle schemes) and manufacturers must continue to use valid EU and UNECE approvals.

This question arises from earlier communications which indicated that provisional UK approval will be needed for trailers (categories O1, O2, O3 and O4). The DfT will be consulting later in 2019 on further UK regulations for a full UK approval scheme which is expected to bring trailers of categories O1, O2, O3 and O4 into scope in the future.
Until this time the requirements of the 2009 Approval Regulations will need to be followed.

The requirements for trailers of category R (and interchangeable towed machinery – category S) will continue unaffected, these are set out in;

- The Road Vehicles (Construction & Use) Regulations 1986 (C&U) Statutory instrument 1986 No. 1078, as amended
- The Road Vehicles Lighting Regulations 1989 (RVLR)) Statutory instrument 1989 No. 1796, as amended

It is understood that there is no intention to introduce new requirements for trailers.

2 Components

Q. Are there any UK requirements for components?

A. The provisional UK approval scheme does not include components and manufacturers must continue to use valid EU and UNECE approvals.

This question arises from earlier communications which indicated that provisional UK approval will be needed for components. The DfT will be consulting later in 2019 on further UK regulations for a full UK approval scheme which is expected to bring certain components into scope in the future.

It is understood that there is no intention to introduce new requirements.

3 Manufacturer's Representative in the EU

Q. As a manufacturer based only in the UK, if I transfer my e11 approvals, will I need a representative in an EU Member State?

A. Yes, once the UK has left the EU. There is requirement for a 'Manufacturer's representative' in all of the frameworks. You will not be able to hold an approval in a EU27 Member State without a representative EU27 Member State.

You may be able to arrange for this relationship, as a commercial matter, with a distributor of your products (if you have one).

Essentially the requirements are for the manufacturer to provide a written mandate to a person or organisation established in the EU and for both parties to agree on the content. It is not sufficient to just obtain a 'PO Box' address.

Information on the requirements for 'Manufacturer's representative' follows which may help in the understanding of the requirement (these extracts from 2007/46/EC, there are similar provisions in 167/2013, 168/2013 and 2016/1628);

> **Article 3 - Definitions**
> …
> 28. 'manufacturer's representative' means any natural or legal person established in the Community who is duly appointed by the manufacturer to represent him before the approval authority and to act on his behalf in matters covered by this Directive, and where reference is made to the term 'manufacturer', it is to be understood as indicating either the manufacturer or his representative;
> …
> **Article 5 - Obligations of manufacturers**
> …
> 3. For the purposes of this Directive, a manufacturer established outside the Community shall appoint a representative established in the Community to represent him before the approval authority.

Although not in effect for type approval under 2007/46/EC yet, the requirements from 2018/858 are suitable guidelines for this purpose (they have effect from 1 Sept 2020);

Article 15 Obligations of manufacturer's representatives

1. The manufacturer's representative shall perform the tasks specified in the mandate received from the manufacturer. That mandate shall at least, provide for the representative to:

(a) have access to the EU type-approval certificate and its attachments referred to in Article 28(1), and to the certificate of conformity in one of the official Union languages; such documentation shall be made available to the approval authorities and to the market surveillance authorities for a period of 10 years after the end of the validity of the EU type-approval of a vehicle and for a period of five years after the end of validity of the EU type-approval of a system, component or separate technical unit;

(b) provide an approval authority, following a reasoned request from that authority, with all information, documentation and any other technical specifications, including access to software and algorithms, that are necessary to demonstrate the conformity of production of a vehicle, system, component or separate technical unit;

(c) cooperate with the approval authorities or the market surveillance authorities, at their request, on any action taken to eliminate the serious risk posed by vehicles, systems, components, separate technical units, parts or equipment covered by that mandate;

(d) immediately inform the manufacturer about complaints and reports relating to risks, suspected incidents or non-compliance issues that relate to vehicles, systems, components, separate technical units, parts or equipment covered by that mandate;

(e) have the right to terminate the mandate without penalty if the manufacturer acts contrary to its obligations under this Regulation.

2. A manufacturer's representative who terminates the mandate on the grounds referred to in point (e) of paragraph 1 shall immediately inform both the approval authority that granted the type-approval and the Commission.

The information to be provided shall specify at least:
(a) the date of termination of the mandate;

(b) the date until which the outgoing manufacturer's representative may be indicated in the information supplied by the manufacturer, including any promotional material;

(c) the transfer of documents, including confidentiality aspects and property rights;

(d) the obligation of the outgoing manufacturer's representative after the end of the mandate to forward to the manufacturer or incoming manufacturer's representative any complaints or reports about risks and suspected incidents relating to a vehicle, system, component, separate technical unit, part or equipment for which the outgoing manufacturer's representative had been designated as manufacturer's representative.

4 Manufacturer's Representative in the UK

Q. As a manufacturer based outside the UK, if I obtain provisional UK approvals, will I need a representative in the UK?

A. No, for provisional UK approvals a representative in the UK is not needed. However, The DfT will be consulting later in 2019 on further UK regulations for a full UK approval scheme which is expected to bring this requirement into national law in the future.

5 UNECE Type Approvals

Q. Will my UNECE approvals remain valid for both UK and EU markets?

A. Yes. Regarding items approved under Regulations of the United Nations Economic Commission for Europe (UNECE); these are not affected by the exit of the UK from the EU. The UK will remain a contracting party to the UNECE agreements after exit. All contracting parties to the regulations are obliged to mutually recognise, i.e. accept, valid UNECE approvals from other contracting parties – the EU itself and Member States are contracting parties to many UNECE Regulations.

Validity and therefore the continued acceptance is only assured provided that you keep these approvals and the associated Conformity of Production (CoP) measures up to date.

6 Type Approval Numbering and Markings

Q. How can I tell whether an approval issued in the UK is affected?

A. Only EU approvals issued by the UK are affected. UNECE approvals are unaffected. There are differences (some of them very subtle) between the numbering and marking requirements of the EU and UNECE schemes. Therefore it is possible to identify whether an approval is issued under the EU scheme or the UNECE scheme by looking at the number or marking.

To tell the difference between an EU and UNECE approval, the first (subtle) difference is in the first character of an approval number;

- For the UNECE scheme the approval number will start with an upper case (capital) 'E'
- For the EU scheme the approval number will start with a lower case ‘e’.

These comments refer to the approval number on the type approval certificate itself rather than as it may appear on some list or other as during transcription often ‘e’ will become ‘E’ which can lead to confusion.

In both schemes the approval number for UK approvals issued by VCA will be followed by the number 11 (signifying the UK), the following section will be;

- In the case of UNECE approvals– a number (in the range 1 to 147) followed by a capital ‘R’ (signifying the number of the UNECE Regulation the product was approved under)
- In the case of EU approvals – a composite number of two parts either side of a ‘/’ character (signifying the number of the EU Regulation or Directive the product was approved under)

Examples

- E11*83R03… first two parts of a UNECE emissions approval number
- e11*715/2007… first two parts of an EU emissions approval number

Where required, the markings on products approved under the UNECE and EU approval schemes are different, the following may help determine which scheme an item is approved under;

UNECE
characterised by having an upper case 'E' in a circle

EU
characterised by having a lower case 'e' in a rectangle

7 Conformity of Production (CoP)

Q. What is Conformity of Production (CoP) Statement?

A. Known interchangeably as a CoP statement of compliance / conformity this is a statement issued by the approval authority of a Member State outlining compliance with the requirements for Conformity of Production. It has regard to the production facilities / area and to the regulatory acts to which the products are type approved. These statements can be issued by the type approval authority that has issued the type approvals for the product(s).

Details can be found, for example, in Annex X of 2007/46/EC at paragraph 1.3, (there are similar provisions with the same purpose in 167/2013, 168/2013 and 2016/1628) an extract from 2007/46/EC follows;

1.3.2.3. The statement of compliance shall include at least the following:

(a) Group or company	(e.g. XYZ Automotive)
(b) Particular organisation	(e.g. European Division)
(c) Plants/Sites	(e.g. Engine Plant 1 (United Kingdom), Vehicle Plant 2 (Germany))
(d) Vehicle/Component range	(e.g. All Category M1 models)
(e) Areas assessed	(e.g. Engine assembly, body pressing and assembly, vehicle assembly)
(f) Documents examined	(e.g. Company and site quality manual and procedures)
(g) Date of the assessment	(e.g. Audit conducted from 18 to 30.5.2009)
(h) Planned monitoring visit	(e.g. October 2010)

More information can be found at;
https://www.vehicle-certification-agency.gov.uk/conformity-of-production/conformity-of-production.asp

8 Validity of UK issued EU Type Approvals

Q. Are e11 approvals valid in UK after transfer to another Member State?

A. No. Once the process of transferring a type approval to another Member State is complete an approval is no longer valid in the UK. For any e11 approvals that are transferred before the UK exits, the act of transferring them will, unfortunately, render them invalid in the EU (including the UK). This is in accordance with the EU regulation 2019/26 which the UK will still be bound by. However, if the transfer is not completed until after exit the e11 approval will remain valid in the UK.

Furthermore, we understand that where a valid application to transfer an e11 approval has been made according to 2019/26 but not completed, these approvals would become invalid upon exit in a no-deal outcome.

9 Extension Numbers

Q. Do I need to provide the extension numbers of the approvals?

A. Yes, please provide the extension numbers in the spreadsheet provided by VCA. If you are expecting some updates in the coming months then please make a note to that effect. If we can accommodate these changes in the issue of the provisional UK approval we will do so, but we cannot guarantee this. In this case we will issue on the basis of the information submitted and the provisional approval can be updated later.

10 Dates

Q. Are there any deadline dates?

A. In theory yes. However, there are different outcomes that give greater significance to some dates. The most significant dates are;

31st of October 2019 – This date is currently significant in 'no deal' scenario.

Both the Government and Parliament have shown a clear preference against a no deal outcome. However, the Prime Minister has been clear that it is appropriate to prepare for a no deal scenario.

To ensure business continuity manufacturers should ensure that they plan ahead and apply for any approvals they require taking into account that there may be a heavy demand ahead of Brexit.

In a 'no deal' scenario;

- EU type approvals issued in the UK for Whole Vehicles, Systems, Components and Separate Technical Units will not be valid in the EU
    - manufacturers must have applied before exit day to an EU27 type approval authority for a new approval to take advantage of the provisions of the regulation allowing the transfer of e11 type approvals
- EU type approvals issued by an EU27 type approval authority for Whole Vehicles for categories L, M, N and T will not be valid in the UK
    - manufacturers will have to obtain a provisional UK approval

31st December 2020 – If there is a ratified withdrawal agreement this date is when the implementation period ends (unless it is extended). In the absence of any other agreement the validity of EU type approvals will be the same as for a no deal scenario. Effectively manufacturers will gain a period of time in which the validity of approvals is unaffected. It would be the UK's aim to reach a mutual recognition agreement to enter into force after this period. If no such agreement is in place, it is likely the conditions set out in the "no deal" scenario above would apply after the implementation period.

11 NSSTA

Q. How are NSSTA approvals affected?

A. The validity of NSSTA is unaffected in the UK. However, as the UK leaves the EU there is the possibility that, whereas previously UK NSSTAs may have been accepted in a Member State, in future the Member States concerned may no longer accept the UK NSSTA (or IVA).

The UK is seeking to confirm with Ireland whether the existing Memorandum of Understanding between the UK and Ireland concerning the reciprocal recognition of national approvals can be maintained.

In a no deal scenario regulations will provide for an allowance of double the current NSSTA limits in the UK for a limited period until the end of December 2019.

Following this further legislation provides for a further increase in the limits (see Statutory Instruments 2019 No. 648 and 2019 No. 1156)

12 Transfer of e11 Type Approvals

Q. What needs to be covered in the transfer process?

A. If you wish to sell products that currently have an e11 EU type approval in the EU you will need to obtain approvals from a EU27 Member State. For this you will need;

- To transfer the EWVTA, it is also necessary to transfer any UK EU type approvals incorporated within it. For example; if you have an e11 'masses and dimensions approval' listed within an e11 EWVTA this will also need to be transferred – please complete the spreadsheet with all relevant approval numbers.
- An EU based manufacturer's representative (see 3 above)
- An up to date CoP statement from VCA