

ROAD TRAFFIC

The Road Vehicles (Construction and Use) (Amendment) (No. 4) Regulations 2003

Made 20th October 2003

Laid before Parliament 27th October 2003

Coming into force 1st December 2003

The Secretary of State in exercise of the powers conferred on him by section 41(1) and (5) of the Road Traffic Act 1988[1], and after consultation with representative organisations in accordance with section 195(2) of that Act, hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Road Vehicles (Construction and Use) (Amendment) (No. 4) Regulations 2003 and shall come into force on 1st December 2003.

Amendment of the Road Vehicles (Construction and Use) Regulations 1986

2. The Road Vehicles (Construction and Use) Regulations 1986[2] are amended by inserting after regulation 109 -

" Mobile telephones

110. - (1) No person shall drive a motor vehicle on a road if he is using -

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in paragraph (4).

(2) No person shall cause or permit any other person to drive a motor vehicle on a road while that other person is using -

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in paragraph (4).

(3) No person shall supervise a holder of a provisional licence if the person supervising is using -

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in paragraph (4),

at a time when the provisional licence holder is driving a motor vehicle on a road.

(4) A device referred to in paragraphs (1)(b), (2)(b) and (3)(b) is a device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data.

(5) A person does not contravene a provision of this regulation if, at the time of the alleged contravention -

(a) he is using the telephone or other device to call the police, fire, ambulance or other emergency service on 112 or 999;

(b) he is acting in response to a genuine emergency; and

(c) it is unsafe or impracticable for him to cease driving in order to make the call (or, in the case of an alleged contravention of paragraph (3)(b), for the provisional licence holder to cease driving while the call was being made).

(6) For the purposes of this regulation -

(a) a mobile telephone or other device is to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function;

(b) a person supervises the holder of a provisional licence if he does so pursuant to a condition imposed on that licence holder prescribed under section 97(3)(a) of the Road Traffic Act 1988 (grant of provisional licence);

(c) "interactive communication function" includes the following:

(i) sending or receiving oral or written messages;

(ii) sending or receiving facsimile documents;

(iii) sending or receiving still or moving images; and

(iv) providing access to the internet;

(d) "two-way radio" means any wireless telegraphy apparatus which is designed or adapted -

(i) for the purpose of transmitting and receiving spoken messages; and

(ii) to operate on any frequency other than 880 MHz to 915 MHz, 925 MHz to 960 MHz, 1710 MHz to 1785 MHz, 1805

MHz to 1880 MHz, 1900 MHz to 1980 MHz or 2110 MHz to 2170 MHz; and

- (e) "wireless telegraphy" has the same meaning as in section 19(1) of the Wireless Telegraphy Act 1949[3]."**

Signed by authority of the Secretary of State

**David Jamieson
Parliamentary Under Secretary of State Department for Transport
20th October 2003**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Construction and Use Regulations 1986 by inserting a new regulation 110.

Regulations 110(1) and (2) prohibit a person from driving, or causing or permitting a person to drive, a motor vehicle on a road if the driver is using a hand-held mobile telephone or similar device. Regulation 110(3) prohibits a person from using a mobile telephone or similar device while supervising a holder of a provisional licence at a time when the provisional licence holder is driving a motor vehicle on a road. It is an offence under section 42 of the Road Traffic Act 1988 to contravene these regulations. Regulation 110(4) provides a definition of devices that are considered similar to hand-held mobile telephones for the purpose of these regulations. This definition excludes two-way radios.

Regulation 110(5) provides that in specific circumstances a person will not breach the regulation. Where a person makes a call to the emergency services on 999 or 112 in response to a genuine emergency where it is unsafe or impracticable for him (or the provisional licence holder) to cease driving while the call is being made, the regulation is not breached.