

Block Exemption Regulations - What does it mean to you and your car?

In October 2003 European Union Legislation affecting the motor trade came into force. Its full title is 'Block Exemption Regulations 1400/2002' (in short 'BER').

This legislation changes the way cars may be serviced and repaired and gives motorists a lot more freedom in their decision as to who should look after their cars.

Before BE, it was very difficult to have cars, which were still covered by the manufacturer's warranty, serviced anywhere except a franchised dealer.

Now motorists can use any garage of their choice to service their cars without invalidating the manufacturer's warranty.*

The latest revision of the BER introduced four 'freedoms' that are aimed at safeguarding free competition in the entire market for vehicle spare parts, service and repair. They affect the way in which the parts distributor can act in the market.

1. Freedom for a franchised dealer and/or and 'authorised repairer' to purchase up to 70% of their purchases of 'original spare parts' and 'matching quality' spare parts from independent market operators of their choice. **This means:** Parts Factors can supply parts of appropriate quality to Dealers and authorised repairers without the Vehicle Manufacturer/Assembler using the dealer/repairer contracts or other means to prevent them.
2. The freedom for parts manufacturers/suppliers to sell their Original Equipment-components without restrictions into independent wholesalers or independent repairers. **This means:** Parts manufacturers can no longer be forced by their 'Original Equipment' contract to limit supply of certain parts to the Vehicle Manufacturer/Assembler. The end of the 'tied parts' arrangements.
3. The freedom for parts manufacturer/suppliers to brand their 'original equipment parts' with their own logo. **This means:** Motorists and garages will be able to identify the manufacturer of a component when it is removed from a vehicle and source its replacement from any distributor of the part. They will no longer feel that they 'have' to go to a dealer for a part.

4. An extension to the obligation on vehicle assemblers to pass on technical information to operators in the independent aftermarket. This information includes, for instance:

- Access to electronic systems for controlling the vehicle's operation
- Right of "reprogramming" information to correct maladjustment

This means: Anyone with a legitimate need for technical information - parts manufacturers – re-manufacturers - distributors - factors - garages - technical publishers - security companies - will have to right of access to it in a usable form and at a reasonable cost (the same cost as charged to anyone within the VAs network)

The new BER also introduces certain definitions of importance to the independent aftermarket.

There is a new definition of '**original spare parts**' and '**matching quality parts**' that is based on the quality of the component. This definition can be used:

- Where parts used are of the same quality as the component used for the assembly of a motor vehicle.
- Where parts used are of the same specifications and production standards as those used by the Vehicle Assemblers.
- Where parts manufacturers/suppliers are able to issue a quality (self-) certification.

The new definition identifies 'original spare parts' in the following ways:

- Parts produced directly by the vehicle assembler.
- Components produced by the OE-supplier and branded with the logo(s) of the vehicle manufacturer and the parts manufacturer/supplier;
- Technically identical parts produced by the parts supplier, branded with his own logo and sold to the independent aftermarket.

Spare parts of '**matching quality**' identifies parts in the following way:

- 'Spare parts made by any undertaking which can certify at any moment that the parts in question match the quality of the components which are or were used for the assembly of the motor vehicles in question.'

An interesting point is that if the manufacturer himself offers spare parts of differing quality (e.g. an 'economy' line), he cannot prohibit its contractual partners (i.e. dealers and authorised repairers) from buying spare parts of the same quality from the independent market.

The BER also covers service and maintenance during the warranty period and prohibits vehicle manufacturers' warranties from including conditions requiring that:

- All normal maintenance be provided within the vehicle maker's network,
- All parts used must be the VA's "original spare parts"

The European Commission declared that such clauses in a warranty document would represent 'an unjustified restriction for the consumer!'

The ADF have written confirmation from OFT that:

Independent repairers CAN carry out normal maintenance and repair services during a vehicle's warranty period without invalidation the VA's warranty conditions. With two provisos...

Provided: that the service is in accordance with the VA's servicing schedules and is recorded as such. And...

Provided: that the parts used are of 'appropriate quality' and are recorded as such.

Don't forget, the new BER helps parts distributors, independent garage and motorists.

If you need more information on this topic, or if you have any evidence of Vehicle Assemblers or their dealers infringing these new rules, the contact the Automotive Distribution Office.

Note: This information is intended to introduce interested parties to the topic of the BER. It should not be taken as a definition of the law or proposed laws.