

INTERIM ADVICE NOTE 55/04 (IAN 55/04)

GUIDANCE ON THE USE OF EUROPEAN STANDARD BS EN 1317 - ROAD RESTRAINT SYSTEMS

SUMMARY

This Interim Advice Note provides supplementary guidance on the procurement process in relation to Road Restraint Systems to ensure compliance with public procurement law

INSTRUCTIONS FOR USE

This IAN which takes immediate effect should be read in conjunction with IAN 44/02

INTERIM ADVICE NOTE

**GUIDANCE ON THE USE OF EUROPEAN STANDARD BS EN 1317 –
ROAD RESTRAINT SYSTEMS**

1. Introduction

Interim Advice Note 44/02 was introduced in August 2002 to provide guidance on changes to the provision and procurement process in relation to road restraint systems and to ensure compliance with European Commission requirements set out in BS EN 1317.

Whilst the advice provided in IAN 44/02 is still extant the Office of Government Commerce (OGC) has recently issued supplementary guidance on the “Use of Standards in Specifications”. The new guidance, a copy of which is attached, reminds contracting authorities in the United Kingdom that when procuring road restraint systems they are legally required to specify in accordance with European Standard BS EN 1317.

2. Implementation

Please ensure that the requirements of IAN 44/02 and the new guidance provided by the OGC, as attached, are followed to ensure compliance with public procurement law.

3. Point of Contact

If you have any queries regarding the content of this memorandum then please contact:

Daniel Ruth,
SSR Risk Management and Vehicle Restraint Team by email at the following
address: daniel.ruth@highways.gsi.gov.uk

PROCUREMENT POLICY

Procurement of Road Restraint Systems.

Guidance on the use of standards in specifications.

ISSUE

1 Legal requirements relating to standards in specifications for procurements relating to road restraint systems.

DISSEMINATION

2 You will need to consider wider circulation within your Department, Agencies, Non-Departmental Public Bodies, Local Authorities and other bodies for which you are responsible.

CONTACT

3 Any enquiries on this note should be addressed to the OGC Service Desk (servicedesk@ogc.gsi.gov.uk) telephone – 0845 000 4999.

DETAIL

4 Contracting authorities in the United Kingdom are reminded that when procuring road restraint systems, they are legally required to specify in accordance with European Standard EN 1317, and that British Standards must not be used where an EN standard exists.

5 Any contracting authority failing to use European Standard EN 1317 when legally required to do so, and persisting in using a British Standard when a European Standard exists, is in breach of public procurement law and risks being subject to domestic, or EC infraction proceedings.

6 This requirement is set out in Article 8 of Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts. Article 8 deals with the technical specifications to be given in the general or contractual documents relating to each contract.

7 This provision has been implemented in the United Kingdom by regulation 8 of the Public Supply Contract Regulations 1995 (SI 1995/201). In particular, regulation 8(2) states-

“If a contracting authority wishes to lay down technical specifications which the goods to be purchased or hired under a public supply contract must meet it shall specify all such technical specifications in the contract documents.”

Regulation 8(3) states-

“Subject to paragraph (4) below, the technical specifications in the contract documents relating to a public supply contract shall be defined by reference to any European specifications which are relevant.”

Paragraphs (a) to (e) of regulation 8(4) set out some specific limited exceptions to regulation 8(3).

8 Detailed technical guidance on applying the above requirement is set out in Interim Advice Note IAN 44/02 issued by the Highways Agency in August 2002 and IAN 44/02 Revision 1 issued in August 2003.

9 Requests for the latest revision of IAN 44/02 can be made by e-mailing ha.irrs@mouchelparkman.com

Procurement Policy Unit
Office of Government Commerce