EXPLANATORY MEMORANDUM TO

THE BUILDING REGULATIONS ETC. (AMENDMENT) (ENGLAND) (NO. 2) REGULATIONS 2021

2021 No. 1392

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and the Office for Zero Emission Vehicles and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument will require the installation of electric vehicle charge points and associated cable routes in new homes, new non-residential buildings and buildings undergoing major renovation, where there is associated parking. These measures will support the transition to electric vehicles, drive the decarbonisation of our transport sector and help us to meet our target of reaching net zero carbon emissions by 2050.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 There are currently no legal provisions relating to electric vehicle charging infrastructure in new homes, new non-residential buildings and buildings undergoing major renovation, where there is associated parking, which is why this instrument is being introduced. The policy measures are similar to some measures in Article 8 of the EU Energy Performance of Buildings Directive https://www.legislation.gov.uk/eudr/2018/844. The UK left the EU on 31 January 2020 with a transition period until the EU-UK Trade and Cooperation Agreement (TCA) took effect from 1 January 2021. The UK is no longer bound by EU law or the requirements of this directive, the Government believes it is within England's interests to proceed with these policy measures to support the transition to electric vehicles.

7. Policy background

What is being done and why?

7.1 Delivering 'net zero' emissions requires action across all sectors of the economy including tackling transport emissions which is the largest contributor to UK domestic greenhouse gas (GHG) emissions, responsible for 27%[1] of emissions in 2019.

7.2 The Government has announced the end of sales of new petrol and diesel cars and vans by 2030, with all new cars and vans being fully zero emission from 2035.

7.3 To support consumers in making the transition to electric vehicles, the Government will work with the private sector and local government to help ensure there is an extensive and accessible network of charging infrastructure.

7.4 Today the majority of all electric car charging happens at home, as it is often faster, cheaper and more convenient for drivers. The Government expects home charging will remain central to the future charging behaviour of drivers. To this end, the new regulations will require new homes to have an electric vehicle charge point installed so will ensure that consumers are able to buy or rent a home ready for an electric vehicle future.

7.5 Charging infrastructure requirements for charge points and cable routes (also referred to as 'ducting') will also apply when a residential building undergoes a major renovation or undergoes a material change of use to create a new dwelling or dwellings.

7.6 Drivers without off-street parking at home are restricted to the use of charge points on streets, the wider road network or in car parks. The new regulations will also require new non-residential buildings and those undergoing major renovation, such as shops and workplaces, to have charging infrastructure installed at the point of construction. This will provide a greater choice for drivers on where and when to charge.

7.7 The Government expect these measures could lead to the installation of up to 145,000 charge points across England every year, making it easier for people to make the switch to electric vehicles.

7.8 Legislation is needed in this area to ensure that the transition to electric vehicles continues at pace and an extensive charging infrastructure is available for drivers. Alternatives to regulation, including continued support through existing grants and other investment-based policy, have been considered. However, incentive-based schemes will not guarantee the required outcome when compared to a regulatory approach. Without regulation, there is limited incentive for builders to install this infrastructure during construction, meaning higher and avoidable retrofit costs to consumers at a later date.

7.9 In November 2021, the Government published the response to the public consultation. This has generated a significant level of public interest due to its proximity to COP26 and the wider green agenda. The Government do not expect the laying of the instrument to generate much further interest in the media as the consultation response outlined the key policy positions.

[1] BEIS (2021). 2019 UK Greenhouse Gas Emissions, https://www.gov.uk/government/statistics/ final-uk-greenhouse-gas-emissions-national-statistics1990-to-2019

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Government periodically carries out a consolidation of building regulations, although there are no immediate plans for the consolidation of the Building Regulations 2010. The amendments made by this instrument will be included the next time there is a consolidation of building regulations.

10. Consultation outcome

10.1 This SI relates to a consultation hosted by the Government between July to October 2019. This consulted on proposals to introduce new building regulations, in England, which would mandate charge point infrastructure in new homes, new non-residential buildings, and when some buildings are renovated. It also consulted on requirements for existing non-residential car parks.

10.2 The consultation received over 250 responses from private individuals and organisations including local authorities, property developers, charge point operators and estate management companies. The highest proportion of respondents to the public consultation (32%) came from private individuals.

10.3 Respondents were largely supportive of the Government's proposals however following reflection on comments received, some changes were made to our proposed policies.

10.4 Most notably, the Government has decided not to introduce the proposed requirement for one charge point in all existing non-residential properties with more than 20 parking spaces. The Government believe a more tailored approach is needed for existing non-residential properties and therefore will work to introduce an alternative policy. Covered car parks have also been exempted from some requirements while research is conducted into appropriate safety measures in these locations.

10.5 The main concerns expressed in the consultation, particularly by property developers, concerned costs to business. Consideration was made of mandating lower requirements, such as cable routes alone, however, this would miss the 'nudge factor' that the Government expects the increased numbers of charge points will have on electric vehicle uptake and the economies of scale cost savings developers receive when installing at scale and a point of construction.

10.6 The Government's response to the consultation was published in November 2021 and is available at: https://www.gov.uk/government/consultations/electric-vehicle-chargepoints-in-residential-and-non-residential-buildings.

10.7 A shorter, targeted consultation was also carried out in March 2021 which informed the decision to exempt residential buildings undergoing major renovation for the purposes of fire safety remediation due to historical fire safety deficiencies (i.e. cladding remediation) from the requirements. The consultation survey was sent to key representative stakeholders of groups identified as being affected by the proposed exemption. This included construction bodies, residents' associations, landlords/managing agent groups and environmental groups. Most respondents agreed with the proposed exemption.

11. Guidance

11.1 The laying of the regulations will be accompanied by publication of the Approved Document which provides guidance for those who need to comply with the new requirements (e.g. building contractors, building owners) and building control bodies (who will enforce the regulations) on how the new regulations can be satisfied. A departmental circular letter on this instrument will also be issued to building control bodies to assist them in assessing compliance. This is available at: https://www.gov.uk/government/collections/building-regulations-divisional-circular-letters

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 Two full Impact Assessments are published alongside the Explanatory Memorandum on the legislation.gov.uk website.

12.4 For residential buildings, the estimated net benefit to society is £1.3 billion over 29 years (to meet the government's 2050 net zero target) in present value terms. This includes an estimated annual net direct cost to business of £137 million.

12.5 For non-residential buildings, the estimated net benefit is £235 million over 29 years in present value terms.

12.6 The sole monetised benefit is the cost saving against the baseline scenario where ducting, cabling and grid connections are retrofitted into existing properties, this is an efficiency saving to society likely to be enjoyed by the occupants of residences. In non-residential buildings, cost savings occur from avoiding disruption to building occupants from works involved in retrofitting charge points.

12.7 There are also non-monetised benefits expected as a result of this policy. Societal benefits are incurred through emissions savings resulting from the expected increase in electric vehicle uptake due to increased access to chargers.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. In the consultation document, the Government set out a possible exemption included for new and existing non-residential properties and those undergoing major renovation, owned and occupied by small and medium enterprises (SMEs). Just over half of respondents said that they did not think SMEs should be exempt from the requirements. In addition, it would be unprecedented to introduce an exemption such as this through Building Regulations and it is expected that costs are more likely to fall to developers, rather than those who own or occupy a building. As such the Government did not take this exemption forward. However, the legislation does contain exemptions to ensure that developments remain viable where installations would be disproportionately difficult or costly. One example is the exemption for new residential properties where the installation of a charge point would increase grid connection costs by more than £3,600 (although cable routes will still be required).

14. Monitoring & review

14.1 The instrument will include a statutory review clause and once introduced monitoring will take place on uptake and compliance through qualitative and quantitative research.

15. Contact

15.1 Grace Carroll at the Department for Transport Telephone: 07814 068385 or email: grace.carroll@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Gary Cook, Deputy Director for the Office of Zero Emission Vehicles, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Parliamentary Under Secretary of State, Eddie Hughes, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.