EXPLANATORY MEMORANDUM TO

THE CAR, VAN AND HEAVY DUTY VEHICLE CARBON DIOXIDE EMISSIONS PERFORMANCE STANDARDS (CIVIL PENALTIES AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2023

2023 No. 1257

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport ("DfT") and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The instrument makes amendments to regulations that were retained in the United Kingdom ("UK") following the UK's withdrawal from the European Union ("EU"). The regulations place limits on the carbon dioxide ("CO_2") emissions from new road vehicles. These road vehicles include cars, light commercial vehicles ("vans") and heavy-duty vehicles ("HDVs"). The instrument enables the DfT to levy fines upon non-compliant HDV manufacturers; amend HDV manufacturer reporting requirements (to reduce the occurrence of errors); and update a value used to calculate CO_2 emissions targets for manufacturers of new vans.

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 extent of this instrument is the whole of the UK.

4.2 The territorial application of this instrument is the whole of the UK.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State, Anthony Browne MP, has made the following statement regarding Human Rights:

"In my view the provisions of The Car, Van and Heavy Duty Vehicle Carbon Dioxide Emissions Performance Standards (Civil Penalties and Miscellaneous Amendments) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The instrument makes amendments to Regulation (EU) 2019/631; Regulation (EU) 2019/1242; and Regulation (EU) 2018/956. All three regulations were retained in the UK, following EU Exit. The DfT has previously amended these regulations with instruments to ensure operability in a UK-only context.[1]

[1] Regulation (EU) 2019/631 was amended by SI 2022/1361, SI 2021/898, 2021/1242, SI 2020/1418, SI 2019/550. Regulation (EU) 2019/1242 & Regulation (EU) 2018/956 were amended by SI 2019/846, SI 2020/1402, SI 2022/1361.

6.2 Regulation (EU) 2019/631 regulates the CO_2 emissions of new cars and vans registered in the UK. This instrument fulfils legal obligations from Regulation (EU) 2019/631 to periodically update a value used in van CO_2 emissions target calculations.

6.3 There are two regulations which set and monitor new HDV CO_2 emissions standards in the UK. These are Regulation (EU) 2019/1242 and Regulation (EU) 2018/956.

6.4 Regulation (EU) 2019/1242 sets CO_2 emission performance standards for new HDVs. This sets requirements for reducing specific CO_2 emissions of new HDVs registered in the UK by 15% from 2025 and by 30% from 2030, based on a 2019-2020 reference period/baseline. Article 8(1) of Regulation (EU) 2019/1242 requires the Secretary of State to impose an excess CO_2 emission premium upon non-compliant HDV manufacturers, while Article 8(4) requires that those premiums are paid into the Consolidated Fund. This instrument creates legislative provisions that determine the means by which excess HDV CO_2 emissions premiums are collected.

6.5 Regulation (EU) 2018/956 stipulates how CO_2 emissions and fuel consumption should be monitored and reported by manufacturers. Under Regulation (EU) 2018/956, HDV manufacturers are required to report data, including CO_2 emissions data, for all new vehicles registered during the reporting period of 1st July – 30th June, by 30th September each year. Article 9 of Regulation (EU) 2018/956 allows the Secretary of State to impose administrative fines in certain circumstances and sets a limit on the amount of the fines. This instrument makes provisions about how such fines are imposed (i.e. by serving a notice which includes specified information).

6.6 This instrument amends Regulation (EU) 2018/956 to ensure that current HDV manufacturer reporting requirements for only the first 8 characters of the 'cryptographic hash' are maintained beyond the 30 June 2025. The cryptographic hash is a combination of up to 50 alphanumeric characters generated when HDVs undergo an emissions test procedure, which itself is a computer simulation, rather than a physical procedure. Currently, manufacturers may report the first 8 characters of the cryptographic hash, rather than the full 50 characters. If this reporting requirement is not maintained, then HDV manufacturers would have to report the full 50 characters of the cryptographic hash after 30 June 2025. This would be more burdensome, as manufacturers would be required to report more data than is currently required, and is likely to increase the potential for human errors during data input. This may subsequently cause issues when assessing CO_2 targets and performance, if the underlying data contains errors.

7. Policy background

What is being done and why?

7.1 In 2021, transport was responsible for around 26% of the UK's greenhouse gas emissions. This represented the largest emissions of any of the UK's sectors on an end user basis. Petrol and diesel fuelled road transport were the main source of transport's emissions in 2021.[2]

7.2 The UK's CO_2 emissions regulations for new road vehicles provides clear pathways for CO_2 emissions reductions to ensure that the UK carbon account for the year 2050

[2] The UK's 2021 greenhouse gas emissions: final figures - statistical release https://www.gov.uk/government/statistics/final-uk-greenhouse-gas-emissions-national-statistics-1990-to-2021

is at least 100% lower than the 1990 baseline, as set out in Article 1(1) of the Climate Change Act 2008.

7.3 Regulation (EU) 2019/631 sets annual specific CO_2 emissions targets for manufacturers of new cars and vans registered in the UK. The targets are calculated based on the mass of the manufacturer's fleet of vehicles. Manufacturers registering vehicles of above average weight receive slightly higher targets than those registering vehicles of below average weight, and vice versa. Heavier vehicles produce a greater amount of CO_2 emissions and vice versa with lighter vehicles. This target setting methodology ensures that targets are reasonable for manufacturers.

7.4 Over time, there has been a general trend for consumers to prefer larger, heavier vehicles. This instrument therefore updates the van body mass value ("B_0") used in calculations to ensure the value remains representative of the industry average and that targets are set of comparable stringency. The B_0 value is a multiplier used in calculating the CO_2 emissions from vans built in a multi-stage process, and represents the average difference between the weight of the base vehicle (a 'first stage' vehicle upon which a van can be built) and the completed, final vehicle (a 'completed' vehicle which has been built in a multi-stage process). Without this intervention, the DfT will continue to use an outdated value to calculate the CO_2 emissions targets for vans, thus reducing the stringency of the car and vans regulations. Regulation (EU) 2019/631 states that this value for vans must be adjusted by 31 October 2021, using van data from 2018, 2019, and 2020. It also states that the new B_0 value shall apply from 1 January 2022 until 31 December 2024. The DfT was unable to update the B_0 value by 31 October 2021, in part, due to the EU's delayed publication of 2020 car and van data. However, using the powers in Article 7(8) of Regulation (EU) 2019/631, the DfT has updated the B_0 value that applies for 2024.

7.5 There are two regulations which set HDV CO_2 emissions standards in the UK. Regulation (EU) 2018/956 stipulates how CO_2 emissions and fuel consumption should be monitored and reported by manufacturers. Regulation (EU) 2019/1242 sets CO_2 emissions performance standards.

7.6 Both Regulation (EU) 2018/956 and Regulation (EU) 2019/1242 allow for the UK Government to issue fines for non-compliance of either CO_2 targets, or for non-compliance of data reporting requirements. While the ability is there, to date the relevant legislative provisions that would permit such a fine to be issued have not been present. This instrument creates legislative provisions that set out how administrative fines are imposed, collected and appealed, in the instance of non-compliance under either of the regulations.

7.7 Under Regulation (EU) 2018/956, HDV manufacturers are required to report data for their vehicles annually by 30th September each year (starting 2021). One such requirement is the reporting of the 'cryptographic hash' – a combination of up to 50 alphanumeric characters generated when HDVs undergo an emissions test procedure, performed via computer simulation. Currently, manufacturers may report only the first 8 characters of the cryptographic hash until 30 June 2025, but are required to report the full cryptographic hash thereafter. This instrument amends Regulation (EU) 2018/956 by allowing manufacturers to continue to report only the first 8 characters of the cryptographic hash past 30 June 2025. Only the first 8 characters are required for the purpose of this Regulation. This amendment enables the DVLA system to capture this data more accurately as the risk of human error is lower when reporting 8 characters (than when reporting the full 50 characters).

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 No consolidation is planned.

10. Consultation outcome

10.1 There was no formal consultation for this instrument due to its technical and uncontroversial nature. The DfT has already delivered proportionate engagement with external stakeholders, who are expecting these changes.

11. Guidance

11.1 The VCA website publishes guidance on the car, van and HDV CO_2 emission regulations. This guidance is publicly available on the VCA website.[3] In 2024, the VCA will update the guidance documents to reflect the legislative changes in this instrument.

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 The DfT has not published an impact assessment for this measure as the direct impacts on business have been assessed at under £5m per year. Instead, light-touch internal analysis has been conducted, the findings of which are presented below.

12.4 The impacts of this instrument are expected to be negligible as the legislative changes are technical / administrative in nature. No new policy measures are being introduced. The instrument provides a continuation of current standards.

- ***Rationale –*** This intervention improves the stringency of Regulation (EU) 2019/1242; Regulation (EU) 2018/956 and Regulation (EU) 2019/631 by: a) deterring vehicle manufacturer non-compliance (via enforcement of fines), and b) streamlining the manufacturer reporting process. It also improves the stringency of Regulation (EU) 2019/631 by updating a vehicle mass value (used in CO_2 emissions calculations) to account for an increase in the real-world weight of vehicles being sold in the UK. These changes further support the DfT's obligations to ensure that the UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.

- ***Costs and benefits –*** This intervention improves the stringency of Regulation (EU) 2019/1242; Regulation (EU) 2018/956 and Regulation (EU) 2019/631. The impacts of this intervention are negligible to stakeholders as the intervention is essentially a continuation of current standards, with a minor update of a vehicle mass value to reflect real-world vehicles. The existing legislation (prior to this intervention) outlined the situations where a manufacturer could be fined and the DfT expects vehicle manufacturers to comply with regulations in the first instance. Additionally, the HMT Greenbook guidance states that analysis of policy assumes full, on-time compliance, therefore, the DfT has not accounted for the potential impact of levied fines.

[3] https://www.vehicle-certification-agency.gov.uk/fuel-consumption-co2/average-emissions-monitoring/

- ***Risks –*** There are no identified risks or uncertainties for this intervention. There is no risk that the intervention fails to meet its policy objectives.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken by the DfT is already accounted for in Regulation (EU) 2019/631.

13.3 Regulation (EU) 2019/631 grants flexibilities to help vehicle manufacturers in certain circumstances. The regulation provides derogations to smaller vehicle manufacturers which may not have the financial or technological ability to achieve significant CO_2 savings. Vehicle manufacturers that register fewer than 1,000 new vehicles in the UK (per calendar year) are also exempted from the regulations to mitigate the impacts on small businesses.

13.4 Under Regulation (EU) 2018/956 HDV manufacturers are required to report data for all vehicles in scope (Article 2), regardless of how many vehicles are produced.

13.5 Regulation (EU) 2019/1242 sets CO_2 emission performance standards for new HDVs and requirements for reducing specific CO_2 emissions of the UK fleet of new HDVs by 15% from 2025 and by 30% from 2030, as defined by the regulation. This applies to all vehicles in scope (Article 2) and small vehicle manufacturers are not exempt.

13.6 It is not necessary to take additional mitigating action to minimise the impact on small businesses. This instrument is a continuation of the current regulatory position and is not expected to have significant impacts on small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation does not include a formal review. A formal review of this instrument is not necessary as there are no significant regulatory impacts and the monetary impact falls below the +/- £5 million net annualised threshold.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Parliamentary Under Secretary of State, Anthony Browne MP, has made the following statement: "As the expected net impact of this instrument on business is negligible, falling well below £5 million, a statutory review clause is deemed to not be required."

15. Contact

15.1 James Vickery at the Department for Transport Telephone: 07773 074513 or email: james.vickery@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Dr. Bob Moran, Deputy Director for Decarbonisation Strategy, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under Secretary of State, Anthony Browne MP, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.