EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (AUTHORISED WEIGHT) (AMENDMENT) REGULATIONS 2023

2023 No. 0000

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments

2. Purpose of the instrument

2.1 This instrument makes provision to permit increases of the maximum authorised weights for certain alternatively fuelled vehicles and certain zero emission vehicles, and to align domestic regulations in respect of the extra weight allowances for international journeys with the Trade and Cooperation Agreement between the European Union ("EU") and the United Kingdom ("UK")[1], entered into on 30th December 2020 (the "TCA"). The permitted weight increases are firstly up to a maximum of one additional tonne for certain alternatively fuelled vehicles and secondly a blanket two tonne increase for certain zero emission vehicles.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument amends subordinate legislation made under section 2(2) of the European Communities Act 1972. It therefore engages the procedural and publication requirements of paragraphs 13 to 15 of Schedule 8 to the European Union (Withdrawal) Act 2018[2], which have been complied with.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for Transport, Richard Holden MP has made the following statement regarding Human Rights:

"In my view the provisions of the Road Vehicles (Authorised Weight) (Amendment) Regulations 2023 are compatible with the Convention rights."

---

[1] [1] https://www.gov.uk/government/publications/ukeu-and-eaec-trade-and-cooperation-agreement-ts-no82021 A copy of this document can be inspected (on reasonable notice) free of charge by contacting the Treaty Enquiries Service: +44 (0)20 7008 1109.

[2] https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted

6. Legislative Context

6.1 The TCA, at Annex 31, Part C, Section 1, includes a requirement to implement amended maximum weights for certain alternatively fuelled vehicles and certain zero emission vehicles, as included in EU Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic[3] and the maximum authorised weights in international traffic , as in force at end of 2020, in respect of international transports made under the TCA. The maximum extra weight permitted for certain alternatively fuelled vehicles or zero emission vehicles is an extra one or two tonnes of weight respectively. These Regulations will permit similar extra weight allowances for traffic moving only domestically, with amendments to the Road Vehicles (Authorised Weight) Regulations 1998[4](S.I. 1998/3111) (the "1998 Regulations").

7. Policy background

What is being done and why?

7.1 This instrument increases the maximum weight limit for certain alternatively fuelled vehicles or zero emission vehicles, mainly heavy goods vehicles ("HGV"s).

7.2 The Department for Transport ("DfT") published its Transport Decarbonisation Plan[5] in 2021, setting out its commitments and the actions needed to decarbonise the entire transport system in the UK. The use of zero emission vehicles and alternatively fuelled vehicles can contribute to transport decarbonisation, as well as reduce emissions of air quality related pollutants. This instrument aims to encourage freight operators to adopt alternatively fuelled vehicles and zero emission vehicles by removing any payload penalty caused by the heavier alternatively fuelled or zero emission powertrain.

7.3 Powertrains consist of everything in a vehicle that delivers power including the engine, energy/fuel store and transmission system. The powertrains required for alternatively fuelled vehicles and zero emission vehicles are different from conventional engines such as petrol or diesel powertrains and although they reduce pollution, they generate extra weight. In most cases the principal additional weight will be from fuel tanks and in the case of electric vehicles, the battery.

7.4 Alongside helping to decarbonise the transport system by incentivising lower and zero emission vehicles, these Regulations will allow domestic operators undertaking UK only transports to utilise the same increased weight limits as operators from the EU entering the UK in accordance with the TCA, ensuring they are not at a commercial disadvantage.

[3] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01996L0053-20190814
[4] https://www.legislation.gov.uk/uksi/1998/3111/contents/made
[5] https://www.gov.uk/government/publications/transport-decarbonisation-plan A copy of this document can be inspected (on reasonable notice) free of charge at the Department for Transport by contacting the details given in paragraph 14 of this Explanatory Memorandum.

Explanations

What did any law do before the changes to be made by this instrument?

7.5 The TCA already commits the UK to allowing certain alternatively fuelled vehicles or zero emission vehicles to operate with up to an extra one or two tonnes of weight respectively, while on international journeys.

7.6 The Road Vehicles (Authorised Weight) and (Construction and Use) (Amendment) Regulations 2017 (S.I. 2017/881)[6] increased the maximum permitted weights for certain alternatively fuelled two and three axle HGVs and buses.

Why is it being changed?

7.7 The 1998 Regulations are being amended to be consistent, create a regime in Great Britain that is similar to the TCA weight uplifts and to enable the extra weights to be carried during domestic operations, to maximise the benefits for businesses in Great Britain.

What will it now do?

7.8 Regulation 4(3) of the 1998 Regulations is amended to replace "maximum permitted gross or train weight" with "maximum permitted gross weight"; because the provision is exclusively concerned with the gross weight of an individual vehicle, rather than a vehicle which forms part of a combination. The current text conflates these two terms, so this is being corrected.

7.9 A definition of "zero-emission vehicle" is inserted at regulation 2(1) of the 1998 Regulations - "alternatively fuelled vehicle" is already defined at regulation 2(1).

7.10 The vehicle categories having their weight limit increased where they are zero emission are:

i. articulated lorries and road train combinations with 5 or 6 axles whose conventional technology weight limit is 40 tonnes;

ii. articulated lorries and road train combinations with 4 axles, normally limited to 36 or 38 tonnes;

iii. two axle motor vehicles (other than buses, which already have a higher limit), normally limited to 18 tonnes;

iv. three axle motor vehicles, normally limited to 25 to 26 tonnes; and

v. three axle articulated buses, normally limited to 28 tonnes.

7.11 In the first two cases an extra one tonne allowance for alternative fuelled vehicles will also be introduced. For the latter three cases the one tonne allowance for alternatively fuelled vehicles has been permitted already.

7.12 No additional weight allowance for zero emission vehicles or alternatively fuelled vehicles will apply to the heaviest weights for articulated lorry and road train combinations (of 44 tonnes) or four axles motor vehicles (of 32 tonnes). The maximum weight limits for individual axles will remain unchanged.

7.13 The additional weight limit for alternative fuel vehicles will offset the additional powertrain weight, up to a maximum of one tonne. Where the additional powertrain weight due to the

[6] https://www.legislation.gov.uk/uksi/2017/881/contents/made

alternative fuel technology is less than one tonne, that actual additional weight is the limit of the additional weight allowance.

7.14 The additional weight allowance for zero emission vehicles will be a flat two tonne increase for the relevant vehicles. This slightly different approach is to provide the maximum possible incentive for these vehicles to be adopted, and because zero emission vehicles have heavier features not directly linked to the powertrain but still as a result of their being zero emission. This is also in the context that many powertrains (particularly battery electric ones) are likely to weigh over two tonnes more than a fossil fuelled comparator and so have to absorb some continued payload disadvantages despite these Regulations.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union. However, relevant statements required under the European Union (Withdrawal) 2018 Act are included at Part 2 of the Annex.

9. Consolidation

9.1 There are no current plans to consolidate the 1998 Regulations.

10. Consultation outcome

10.1 A public consultation was carried out from 14th July 2021 to 3rd September 2021, asking whether to permit certain alternatively fuelled vehicles or zero emission vehicles to have higher weight limits, as part of a wider consultation on phase out dates for non-zero-emission HGVs. A total of 92 responses to the consultation were received.

10.2 Respondents were generally in favour of the proposals to increase weight limits, due to the need to offset the higher powertrain weight of alternatively fuelled vehicles or zero emission vehicles, to minimise any reduction in payload available and in order to ensure that domestic operators could access the same weight allowances as EU operators. Some respondents were in favour of weight limit increases for all vehicle types, rather than just those with alternative fuel or zero emissions powertrains and for these to apply beyond the existing standard maximum weight for a six-axle HGV of 44 tonnes. This is not being considered, given the desire to improve the commercial appeal of alternatively fuelled vehicles and zero emission vehicles relative to conventionally fuelled vehicles and in order to avoid excessive road wear.

10.3 The full consultation summary is available here: https://www.gov.uk/government/consultations/heavy-goods-vehicles-ending-the-sale-of-new-non-zero-emission-models/outcome/outcome-and-response-to-the-consultation-on-when-to-phase-out-the-sale-of-new-non-zero-emission-hgvs[7]

10.4 As the Regulations being amended are reserved, no specific consultation with the Devolved Administrations took place, however they were kept informed of the consultation and the resulting policy decisions.

11. Guidance

11.1 Formal guidance is not required. The consultation response explained the different approaches to providing extra weight for alternatively fuelled vehicles and zero

[7] A copy of this document can be inspected (on reasonable notice) free of charge at the Department for Transport by contacting the details given in paragraph 14 of this Explanatory Memorandum.

emission vehicles. Updated information about maximum weights will be published as and when on the DfT website:
https://www.gov.uk/government/organisations/department-for-transport

12. Impact

12.1 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, a De Minimis Assessment ("DMA") has been conducted, the findings of which are presented below. The DMA is also published alongside this EM.

12.2 There is no, or no significant, impact on business, charities or voluntary bodies. The market for these vehicles is still at an early stage, and the additional weight allowance of one to two tonnes is therefore very unlikely to be the main current barrier for businesses wanting to use zero emission vehicles ("ZEV"s) or alternatively fuelled vehicles ("AFV"s). The main current barriers are likely to be technology readiness, the affordability of these vehicles, and the lack of supporting infrastructure (particularly refuelling or recharging points), and in addition current evidence suggests that very few eligible vehicles would be in scope of this change. The legislation does not force businesses to do anything but allows them to make use of this weight allowance if they wish to do so and is therefore permissive in nature. This means that the legislation does not have any direct impacts to businesses apart from familiarisation costs (as the weight alone is not the main barrier for businesses wanting to switch to greener vehicles).

12.3 The current benefits are the indirect efficiency gained from the additional weight allowance, emissions reductions, improved productivity of operators and reduced congestion on roads. The current indirect costs of this policy are expected to be the costs incurred in deciding whether the switch to a ZEV or AFV fleet is beneficial, potential indirect costs of purchasing new ZEVs or AFVs, impacts on infrastructure, potential changes in accident severity and any further training businesses might decide upon. Familiarisation costs for haulage businesses are the only direct cost but fall below the 'de minimis' threshold with a value of around £0.4m per year (2022 prices, 2023 present value). The costs and benefits have been monetised where possible and concludes with an overall net benefit to society over 10 years, with a Net Present Value of £22m (within a range of £5.9 - £73.4m, 2022 prices and 2023 present value).

12.4 We therefore expect there to be no, or no significant impact on the public sector.

12.5 As technology improves and the infrastructure adapts to these vehicles, a Post Implementation Review in five years' time will look at re-assessing the evidence and impacts of this legislation and determining whether these permissions are still required or having the intended effects.

12.6 Due to the impacts to business being low, and indirect, its impacts meet the 'de minimis' threshold of fewer than £5 million equivalent annual net direct costs (or benefit) to business. A DMA has therefore been prepared for this instrument.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses because these Regulations are permissive. There is no obligation for vehicle

manufacturers to make use of the higher weight limits available and the use of alternatively fuelled vehicles or zero emissions vehicles is optional.

13.3 The approach to monitoring of this legislation is to conduct a review in five years, to determine if the intention of supporting the uptake of alternatively fuelled vehicles and zero emission vehicles is being supported.

13.4 The market for zero emission vehicles is still in an early stage, particularly for the heavy-duty vehicle types affected by these Regulations, with few models available and generally higher initial costs that equivalent fossil fuelled vehicles. Therefore, even in five years' time, there may still be limited numbers of the relevant vehicles on the roads. Nevertheless, it is likely there will be far more clarity around what vehicles are likely to be available and whether the additional weight allowances granted by this instrument are having an effect.

13.5 The market for alternatively fuelled vehicles is in a more advanced stage, with greater numbers of vehicles already in use and a wider variety on sale. While any non-zero-emission vehicles will eventually be phased out, the use of alternatively fuelled vehicles can significantly reduce carbon emissions in the medium term. DfT is also able to monitor the use of alternative fuels such as biomethane to determine whether the use of alternatively fuelled vehicles is increasing.

13.6 A statutory review clause is included in the instrument to review the Regulations before the end of the period of five years beginning with the date on which they come into force, and subsequently at five yearly intervals thereafter.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through ongoing stakeholder engagement with the industry and representatives of interested bodies.

14.2 A statutory review clause is included in the instrument. The instrument contains a requirement for the Secretary of State to review the legislation from time to time and publish a report setting out the conclusions of the review at least every five years.

15. Contact

15.1 Robert Evans, Policy Adviser at the Department for Transport, Telephone: 07971 110212 or email: rob.evans1@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Duncan Price, Deputy Director for Road Freight Regulation, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

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

Annex

Statements under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020

Part 1A

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before IP completion day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising section 8 or part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 5 or 19, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after IP completion day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before IP completion day, and explaining the instrument's effect on retained EU law.

Part 1B

Table of Statements under the 2020 Act

This table sets out the statements that may be required under the 2020 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraph 8 Schedule 5	Ministers of the Crown exercising section 31 to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees

Part 2

Statements required under the European Union (Withdrawal) 2018 Act or the European Union (Future Relationship) Act 2020

1. Good reasons

1.1 The Parliamentary Under Secretary of State for Transport, Richard Holden MP, has made the following statement in accordance with paragraph 15(2) of Schedule 8 to the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument and I have concluded they are a reasonable course of action.

These are to encourage freight operators to adopt alternatively fuelled vehicles and zero emission vehicles by removing any payload penalty caused by the heavier alternatively fuelled or zero emission powertrain and in doing so, contribute towards the decarbonisation of the transport sector. The use of zero emission vehicles and alternatively fuelled vehicles can be a significant contributor to transport decarbonisation, as well as reduce emissions of air quality related pollutants.".

2. Scrutiny statement where amending or revoking regulations etc. made under section 2(2) of the European Communities Act 1972

2.1 The Parliamentary Under Secretary of State for Transport, Richard Holden MP, has made the following statement in accordance with paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018:

"I have taken the following steps to make the draft instrument published in accordance with paragraph 14(2) of Schedule 8 to the European Union (Withdrawal) Act 2018 available to each House of Parliament: Copies of the draft instrument were published on the gov.uk website. Copies of the draft instrument were also deposited in the libraries of both Houses of Parliament for comment and for any recommendations. A draft of the instrument has been laid under the draft affirmative procedure not before a period of 28 days from the date of publication.".

3. Explanations where amending or revoking regulations etc. made under section 2(2) of the European Communities Act 1972

3.1 The Parliamentary Under Secretary of State for Transport, Richard Holden MP, has made the following statements in accordance with paragraph 15(3) of Schedule 8 to the European Union (Withdrawal) 2018 Act:

Paragraph 15(3)(a): law which is relevant to the amendment:

"The list of vehicle type numbers in the definition of "relevant alternatively fuelled vehicle" in regulation 4(4) and the allowance given for in Schedule 1(1A) of the Road Vehicles (Authorised Weight) Regulations 1998 (S.I. 1998/3111), defining the vehicles that could benefit from the existing permitted weight uplifts, were inserted by the Road Vehicles (Authorised Weight) and (Construction and Use) (Amendment) Regulations 2017 (S.I. 2017/881). S.I. 2017/881 was made under powers in both the Road Traffic Act 1988 and section 2(2) of the European Communities Act 1972 primarily to transpose Commission Directive 2015/719, which itself amended Council Directive 96/53/EC. These provisions (amongst others) are being amended."

Paragraph 15(3)(b): effect of the amendment or revocation on retained EU law:

"The overall effect of the amendments is to expand a benefit available to international transports to domestic only transports by allowing certain types of vehicles to benefit from an increase maximum permitted weight limit in certain circumstances.".