EXPLANATORY MEMORANDUM TO

THE NEW HEAVY-DUTY VEHICLES (CARBON DIOXIDE EMISSION PERFORMANCE STANDARDS) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2025

2025 No. 367

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.

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

2. Declaration

2.1 Lilian Greenwood MP, Parliamentary Under Secretary of State for the Future of Roads at the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Rosalind Marshall, Deputy Director for Zero Emission Vehicle Regulations and Heavy-Duty Vehicles, at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Eamonn Mulholland at the Department for Transport Telephone: 07977 696637 or email: eamonn.mulholland@dft.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends Regulation (EU) 2019/1242[1] that regulates Carbon Dioxide (CO_2) emissions from new heavy-duty vehicles. This regulation requires that manufacturers of vehicles in scope reduce their fleet average specific CO_2 emissions by 15% in the 2025 reporting period (i.e., 1 July 2025 – 30 June 2026) and 30% in the 2030 reporting period (i.e., 1 July 2030 – 30 June 2031), relative to a set of reference emissions. The reference emissions currently refer to vehicles sold in the UK over the 2019 reporting period. When originally assimilated into UK law, it was the policy intention that these reference values be based off vehicles sold in the European Union and the UK over the 2019 reporting period. However, the New Heavy Duty Vehicles (Carbon Dioxide Emission Performance Standards) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1402) ("the 2020 Regulations") incorrectly narrowed the scope of the reference emissions to refer only to vehicles registered for the first time in the UK. This instrument corrects this discrepancy by updating the reference emissions to be based off vehicles sold in the European Union as well as the UK over the 2019 reporting period.

[1] https://www.legislation.gov.uk/eur/2019/1242/contents.

4.2 This instrument amends the provision relating to the deviations from reported information on CO_2 emissions which the Secretary of State must take into account for the purpose of calculating CO_2 emissions to include deviations reported by manufacturers. It also requires the Secretary of State to amend, where appropriate, the list which the Secretary of State is required to publish annually in relation to each manufacturer's CO_2 emissions.

4.3 This instrument amends Regulation (EU) 2020/1079[2] to correct deficiencies to ensure operability in a UK context for the verification and correction of data reported to the Secretary of State on new heavy-duty vehicle CO_2 emissions and fuel consumption.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 To contribute towards reducing greenhouse gas emissions from the road transport sector, Regulation (EU) 2019/1242 was established in the European Union in 2019. Manufacturers of most heavy-duty vehicles registered within the EU for the first time were required to reduce their fleet average specific CO_2 emissions[3] by 15% in the 2025 reporting period and by 30% in the 2030 reporting period relative to a set of reference emissions common to all manufacturers based on vehicles sold in the 27 Member States of the European Union ("EU-27") and the UK over the period 1 July 2019 – 30 June 2020.

5.2 Before the end of the transition period, Regulation (EU) 2019/1242 was amended by the 2020 Regulations[4] to correct deficiencies to ensure that retained EU legislation would continue to function properly outside the EU. During this amendment process, following consultation, it was agreed that the reference emissions against which the targets were set would continue to be based off the same reference values currently applicable in the EU-27, and published by the European Commission in Annex II of Regulation (EU) 2021/781.

5.3 The policy intent of the 2020 Regulations to set the reference values based on vehicles sold in the EU-27 and the UK over the period 1 July 2019 – 30 June 2020 was communicated in the UK's Government's response to the consultation in October 2020,[5] in the Explanatory Memorandum to the 2020 Regulations[6] and in guidance published on the Vehicle Certification Agency's website.[7] Hard copies can be

[2] https://www.legislation.gov.uk/eur/2020/1079/introduction/adopted.
[3] The fleet average specific CO_2 emissions of a manufacturer is the average of the specific CO_2 emissions (measured in grams of CO_2 per tonne-kilometer) across all vehicles by a manufacturer that are within scope of the regulation, weighted by the vehicle's annual mileage and payload.
[4] https://www.legislation.gov.uk/uksi/2020/1402/pdfs/uksi_20201402_en.pdf.
[5] https://www.gov.uk/government/consultations/regulating-co2-emission-standards-for-new-heavy-duty-vehicles-after-transition/outcome/government-response-to-the-consultation-on-proposals-to-regulate-carbon-dioxide-emission-performance-standards-for-new-heavy-duty-vehicles-in-the-uk.
[6] https://www.legislation.gov.uk/uksi/2020/1402/pdfs/uksiem_20201402_en.pdf.
[7] https://www.vehicle-certification-agency.gov.uk/publication/hdv-co2-regulations-guidance/

obtained from the Department upon request at the contact details provided for in paragraph 3.

5.4 Regulation (EU) 2019/1242 does not currently fully reflect the original policy intent behind the 2020 Regulations because it provides for reference values to be calculated on the basis of specific CO_2 emissions from new vehicles sold in the UK over the period 1 July 2019 – 30 June 2020 rather than the new vehicles sold in the EU-27 and the UK over this period.

5.5 This discrepancy could result in some manufacturers basing their CO_2 targets on UK-only reference emissions and other manufacturers basing them on the EU-27 and UK reference emissions.

5.6 This instrument aligns policy intent with the regulatory text in advance of the first target period coming into effect on 1 July 2025, and makes clear that the reference values are based on vehicles sold in the EU-27 and the UK over the period 1 July 2019 – 30 June 2020.

5.7 This instrument also grants the Secretary of State the power to update the reference emissions to account for any deviations in CO_2 emissions reported by manufacturers.

5.8 This instrument also corrects deficiencies in Regulation (EU) 2020/1079 which was assimilated following the end of the transition period under the European Union (Withdrawal) Act 2018 (c. 16), but had not been corrected to ensure operability in a UK context.

5.9 Regulation (EU) 2020/1079 establishes a verification and correction procedure for the data submitted by manufacturers in accordance with Regulation (EU) 2018/956[8] which lays out the data to be reported to the Secretary of State regarding the CO_2 emissions and fuel consumption of new heavy-duty vehicles.

5.10 This verification and correction procedure involves the Secretary of State selecting a sample of vehicles, between 2% and 10% of the number of heavy-duty vehicles registered in the reporting period, notifying each manufacturer of the vehicles selected, and requesting the original manufacturer's records file and a copy of the engine type-approval certificate, which includes information on manufacturer and characteristics of the engine. The manufacturer will have one month to provide this information to the Secretary of State, represented by the Vehicle Certification Agency.

5.11 The Vehicle Certification Agency on behalf of the Secretary of State shall also crosscheck the cryptographic hash values – a unique identifier for each vehicle for which CO_2 emissions have been calculated as outlined in the manufacturer's record file – against the imprint of the corresponding cryptographic hash values reported to the Driver and Vehicle Licensing Agency (DVLA).

5.12 Since Regulation (EU) 2020/1079 was assimilated, it has not been amended to replace references to the European Union, Commission, or Member States with the United Kingdom or Secretary of State as appropriate. This instrument also corrects these deficiencies.

What was the previous policy, how is this different?

5.13 Assimilated Regulation (EU) 2019/1242 as amended by the 2020 Regulations does not currently adequately reflect the policy intent. It currently indicates that the reference emissions is based on vehicles first registered in the UK over the period 1

[8] https://www.legislation.gov.uk/eur/2018/956/contents.

June 2019 – 30 June 2020. The policy intent was for the reference values to be based on new vehicles first registered in the EU-27 and the UK over this period.

5.14 To correct this discrepancy, amendments effected by this instrument stipulate that if a new heavy-duty vehicle is first registered over the period 1 June 2019 – 30 June 2020 and is in scope of assimilated Regulation (EU) 2019/1242, then it refers to those vehicles first registered in the EU-27 and the UK. If the vehicle is first registered after 1 July 2020, then it refers only to vehicles first registered in the UK.

5.15 Assimilated Regulation (EU) 2020/1079 refers to the European Commission, Member States and the European Environment Agency. To ensure operability in a UK context, this instrument replaces those references to the Secretary of State.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is implemented using powers conferred by section 14(1), 14(2), and 14(7) of the Retained EU Law (Revocation and Reform) Act 2023. Section 14(1) provides that the Secretary of State "may revoke any secondary retained EU law without replacing it".[9] Section 14(2) provides that the Secretary of State "may by regulations revoke any secondary retained EU law and replace it with such provision as the relevant national authority considers to be appropriate and to achieve the same or similar objectives." Section 14(7) provides that any provisions "made by regulations under this section [Section 14] may be made by modifying any secondary retained EU law" now known as secondary assimilated law by virtue of section 5(1) of the Act

6.2 This instrument amends Regulation (EU) 2019/1242 so that it fully reflects the policy intent in relation to the scope of vehicles which are taken into account when the reference emissions are calculated. Currently, Article 2(2) and Point 3 of Annex I of Regulation (EU) 2019/1242 indicate that vehicles registered for the first time in the UK over the period from 1 July 2019 to 30 June 2020 should be taken into account when calculating the reference emissions, contravening the policy intent at the time when and since Regulation (EU) 2019/1242 was amended by the 2020 Regulations. This instrument amends the scope of vehicles taken into account for the calculation of the reference emissions to vehicles registered for the first time in the EU-27 and the UK. The Department considers that this discrepancy between the provisions of Regulation (EU) 2019/1242 and the policy intent was the result of an error in the 2020 Regulations in their incorrect amendment (by regulation 4(2)) of Regulation (EU) 2019/1242. In accordance with paragraph 4.7.6 of Statutory Instrument Practice, the Department has consulted the SI Registrar on whether to apply the free issue procedure and the Department considers it appropriate to apply it in view of this correction.

6.3 The first reporting period for the calculation of the compliance metrics under retained law Regulation (EU) 2019/1242 in the UK is 2020, while it was 2019 in the original version of this Regulation as it applied in the EU. As this was never updated, this instrument also substitutes the iterations of "2019" with "2020", where appropriate.

6.4 The instrument amends Article 9 to allow the Secretary of State to amend the list published in accordance with 11(1) based on any deviations identified. This list includes each manufacturers' average specific CO_2 emissions, the zero- and low-

[9] https://www.legislation.gov.uk/ukpga/2023/28/contents.

emission vehicle factor, the specific CO_2 emissions target, credits and debts, the excess CO_2 emissions, and the reference CO_2 emissions.

6.5 This instrument also makes a correction to reflect an erratum in the original regulation, under point 5.2 of Annex I where emission debts are referred to instead of emission credits in a formula. This was also corrected in the EU's equivalent legislation in 2023 in a published corrigendum.[10]

6.6 This instrument also amends Regulation (EU) 2020/1079 to correct deficiencies that have not been addressed since its assimilation into UK law as detailed in paragraph 5.15.

Why was this approach taken to change the law?

6.7 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 When drafting the 2020 Regulations, the Government carried out a consultation from 10 July to 21 August 2020 on proposals to amend the retained EU legislation to ensure it continues to function in the UK from 1 January 2021. The government's response to this consultation was published on 13 October 2020.

7.2 The policy intent was made clear in this response that the reference emissions should be based off new vehicles first registered in the EU-27 and the UK over the period 1 June 2019 – 30 June 2020 that are in scope of the Regulation (EU) 2019/1242. As this instrument is correcting a discrepancy in the existing Regulation where the policy intent has already been made clear, a further consultation was not considered to be necessary.

8. Applicable Guidance

8.1 Guidance for compliance with the heavy-duty vehicle CO_2 standards is publicly available on the Vehicle Certification Agency website.[11] Hard copies can be obtained from the Department upon request at the contact details provided for in paragraph 3.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this instrument relates to correcting a deficiency in existing regulation in the case of amending Regulation (EU) 2020/1079, and corrects a policy implementation error in Regulation (EU) 2019/1242.

The potential impact on manufacturers was considered in a projected scenario over the period from 2020 to 2030 where all manufacturers covered under the scope of Regulation (EU) 2019/1242 followed a set of reference emissions based on the vehicles sold in the UK and compared it to the compliance effort if manufacturers followed the reference emissions based on the vehicles sold in the EU-27 and the UK as per the policy intent. As the UK reference emissions are, on average, 0.5% lower than the EU-27 and the UK reference emissions, the effort required by manufacturers

[10] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1242R(01)&qid=1733153768970
[11] https://www.vehicle-certification-agency.gov.uk/publication/hdv-co2-regulations-guidance/

to comply with these standards is marginally lessened when EU-27 and the UK reference emissions are applied for any manufacturer that was following the UK-only reference values according to a strict reading of the policy.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument is correcting a deficiency in existing regulation in the case of amending Regulation (EU) 2020/1079, and corrects for a discrepancy in policy intent and design in Regulation (EU) 2019/1242. A de minimis Impact Assessment is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument corrects deficiencies in Regulation (EU) 2020/1079, and corrects a policy implementation error in Regulation (EU) 2019/1242.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As this instrument is made under the Retained EU Law (Revocation and Reform) Act 2023, no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument was laid for sifting on the 24th of February. On 11 March, the Secondary Legislation Scrutiny Committee and the Transport Select Committee agreed with the government that this instrument should follow the negative procedure. The Minister has considered the decision of the Sifting Committees and has approved and signed the instrument.

11.2 The negative procedure was considered appropriate for this instrument because it does not change the underlying policy approach but rather corrects a defect in Regulation (EU) 2019/1242 and Regulation (EU) 2020/1079 using sections 14(1), 14(2), and 14(7) of the Retained EU Law (Revocation and Reform) Act 2023.

12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State for the Future of Roads, Lilian Greenwood MP, has made the following statement regarding Human Rights:

"In my view the provisions of The New Heavy-Duty Vehicles (Carbon Dioxide Emission Performance Standards) (Miscellaneous Amendments) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is made under section 14(1), (2) and (7) of the Retained EU Law (Revocation and Reform) Act 2023 and therefore relates to the reform of assimilated law. The Minister has made any relevant statements, below, under the 2023 Act.

Annex - Statements required under the Relevant European Union Acts

1. Sifting statement(s)

1.1 The Parliamentary Under Secretary of State for the Future of Roads, Lilian Greenwood MP, has made the following statement regarding use of legislative powers in the Retained EU Law (Revocation and Reform) Act 2023:

"In my view The New Heavy-Duty Vehicles (Carbon Dioxide Emission Performance Standards) (Miscellaneous Amendments) Regulations 2025 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)".

This is the case because this instrument does not change the underlying policy approach, but rather corrects a discrepancy between the original policy intent and the way it has been implemented.