EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLE CARBON DIOXIDE EMISSION PERFORMANCE STANDARDS (CARS AND VANS) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2021

2021 No. 1242

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument makes a number of amendments to legislation regulating the carbon dioxide ("CO_2") emissions from new passenger cars ("cars") and new light commercial vehicles ("vans") in the United Kingdom ("UK") to ensure the overall UK regime functions as intended. All of the amendments are of either a technical or administrative nature and include: an update to a mass value used in CO_2 target calculations in 2022 to 2024; fixing legislative gaps to ensure every car and van manufacturer can be set CO_2 reduction targets; and updating contact details in the legislation.

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 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, Trudy Harrison MP has made the following statement regarding Human Rights:

"In my view the provisions of the Road Vehicle Carbon Dioxide Emission Performance Standards (Cars and Vans) (Miscellaneous Amendments) Regulations 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument amends various pieces of legislation regulating CO_2 emissions from new cars and vans to ensure the UK wide regime can continue to operate as intended.

The legislation amended via this instrument is as follows: Regulations 2019/631[1]; 1014/2010[2]; 293/2012[3]; 63/2011[4] and 114/2013[5], all as amended.

6.2 Regulation (EU) 2019/631 is the principal legislation regulating car and van CO_2 emissions in the European Union ("EU") and was retained in UK law following the transition period by the European Union (Withdrawal) Act 2018 ("EUWA"). This regulation is supported by a much wider package of additional regulations, including eight pieces of tertiary legislation and several implementing decisions[6] , which were also retained in UK law via the EUWA. The retained regulations have been subsequently corrected by three EU exit Statutory Instruments ("SIs"), SI 2019/550[7], SI 2020/1418[8] and SI 2021/898[9] to correct deficiencies and/or to ensure that they continue to operate effectively following the end of the transition period. The corrected regulations and implementing decisions have regulated CO_2 emission from new cars and vans in the UK since 1st January 2021[10].

6.3 Regulation 2019/631, as amended, is the principal legislation regulating car and van CO_2 emissions in the UK. The principal function of this Regulation is to set every new car and van manufacturer CO_2 emission reduction targets. Regulations 1014/2010 and 293/2012, as amended, relate to the monitoring and reporting of CO_2 emissions from new cars and vans respectively. Regulations 63/2011 and 114/2013, as amended, lay down rules for applying for a derogated CO_2 target for new cars and vans respectively. The ways in which these pieces of legislation are amended via this instrument are outlined in Paragraph 7.1 to 7.4.

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02019R0631-20201119&from=EN#tocId32 as amended by SI 2020/1418 and SI 2021/898.
[2] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32010R1014&from=EN as amended by SI 2019/550.
[3] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02012R0293-20190708&from=EN as amended by SI 2019/550,
[4] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02011R0063-20190305&from=EN as amended by SI 2019/550.
[5] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0114-20140602&from=EN as amended by SI 2019/550 and SI 2021/898.
[6] The entire regulations that set CO_2 emissions standards for cars and vans in the UK, as amended by SI 2019/550, SI 2020/1418 and SI 2021/898. Regulation (EU) 2019/631, Regulation (EU) 114/2013, Regulation (EU) 63/2011, Regulation (EU) 1014/2010, Regulation (EU) 293/2012, Regulation (EU) 725/2011, Regulation (EU) 427/2014, Regulation (EU) 2017/1152 and Regulation (EU) 2017/1153. Approved eco-innovations Implementing Decision's as amended by either SI 2020/1418 or SI 2019/550: (EU) 2020/174, (EU) 2020/1167, (EU) 2020/1232, (EU) 2020/1806, (EU) 2020/1714, (EU) 2020/1339 as amended by (EU) 2020/1714 and (EU) 2019/1119 as amended by (EU) 2020/1714. Approved derogation Implementing Decisions: C(2020) 5480, C(2019) 8932, C(2019) 8817, C(2019) 8815, C(2019) 3591, C(2019) 3521, C(2018) 6579, C(2017) 2173, C(2016) 6338, C(2016) 3770 and C(2019) 3516.
[7] https://www.legislation.gov.uk/uksi/2019/550/contents
[8] https://www.legislation.gov.uk/uksi/2020/1418/contents/made
[9] https://www.legislation.gov.uk/uksi/2021/898/contents/made
[10] Great Britain was regulated from 1st January 2021, Northern Ireland has had regulation since 1st September 2021.

7. Policy background

What is being done and why?

7.1 There are three main amendments being made by this instrument to ensure CO_2 emissions from new cars and vans can continue to be regulated in the UK as intended. Each amendment is outlined below separately.

7.2 **Updating the average mass value of a car used in CO_2 target calculations.** Regulation 2019/631 as amended assigns CO_2 targets by comparing the average mass of a manufacturer's new car or van fleet against the average mass of a vehicle sold in the UK, because vehicle mass is inherently linked to the amount of CO_2 emissions produced. This average mass value is routinely updated as required by Regulation 2019/631 as amended to ensure that the regulation keeps pace with changes to the vehicle market/to the vehicle types being sold. Once updated, this value is then used in CO_2 target calculations. Therefore, by updating the average mass value it upholds the stringency of CO_2 targets set. The 'average car mass value' currently listed in the regulation expires at the end of 2021, meaning that without this update, no car manufacturer could be set CO_2 emission reduction targets from 2022 onwards. This amendment applies a value of 1435.77kg (which is the average mass of all new cars sold in the UK between 2017-2019) to be used in all car CO_2 target calculations from 2022-2024. If this amendment did not happen approximately 2 million new cars in the UK would be subject to ineffective regulation, most likely resulting in increased greenhouse gas emissions with significant implications for carbon budgets and go directly against the Government's climate ambitions.

7.3 **Fixing legislative gaps in retained EU legislation on how manufacturers in specific circumstances should be set CO_2 emission targets**. When Regulation 2019/631 as amended was retained following the transition period, it contained a number of gaps that would prevent manufacturers in specific circumstances from being able to receive a CO_2 emissions target. These were deficiencies in the regulation itself, rather than deficiencies caused as a result of retaining EU law in the UK. The specific circumstances are outlined below:

- Manufacturers with no CO_2 emissions in 2020, who 'pool' with other manufacturers from 2021 onwards;
- Manufacturers who are new to market from 2021 onwards;
- Manufacturers who merge together to become a new manufacturer;
- Manufacturers who have been granted certain derogations in 2021; and
- Manufacturers who are new to market and eligible for a derogation from 2021.

Every car and van manufacturer that registers over 1,000 vehicles in the UK needs to be set a CO_2 emissions target. Therefore, the technical calculations set out in this instrument will ensure every manufacturer, including those in the above circumstances, can be set a CO_2 emission reduction target from 2021 onwards (i.e. a CO_2 target to be used in calculations from 2022 onwards). If this amendment was not made the CO_2 emissions from these vehicles would be unregulated, going against the intention of the regulation and the Government's climate ambitions. It is important to note these manufacturers would have been set CO_2 targets prior to 2021, but due to the CO_2 target equation updating it now means they are unable to be set a target as the equation relies on a manufacturer having 2020 CO_2 emissions data which new manufacturers, and those outlined above, will not have. This amendment provides manufacturers with a way of

calculating a substituted 2020 CO_2 emissions value. The methodology outlined in this instrument to enable the VCA to calculate a CO_2 target for the manufacturers aforementioned will first be used in 2022 with respect to 2021 registration data.

7.4 **Updating the contact details from Department for Transport's ("DfT"") to the Vehicle Certification Agency's ("VCA").** The retained EU regulations, Regulations 1014/2010, 293/2012, 63/2011, 114/2013, were corrected by SI 2019/550 to change contact details from the Secretariat General of the EU Commission to the Environment Strategy team within the DfT. The Secretary of State has since given responsibility for enforcement of new car and van CO_2 emissions in the UK to the VCA, therefore these details need to be updated to the VCA's. This update will make sure all paperwork is sent to the correct physical and email address.

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 There are currently no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 No formal consultation has been held specifically on the corrections proposed in this instrument. A consultation was deemed unnecessary because the amendments being made via this instrument are of either a technical or administrative nature. However, all auto manufacturers have been made aware of these changes either via a VCA guidance document or during bilateral meetings. In addition, on the 30th March 2021 the VCA led a technical workshop where all of these amendments were discussed; 90 stakeholders attended this session.

11. Guidance

11.1 As mentioned in paragraph 10.1 the VCA has produced a guidance document to help manufacturers understand the UK car and van CO_2 regulations. This guidance document will be updated in Winter 2021 to reflect that the amendments in this instrument have now taken place.

11.2 The guidance document can be found at https://www.vehicle-certification-agency.gov.uk/wp-content/uploads/2021/03/New-Car-and-Van-CO2-Regulations-Guidance-2020.pdf

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 An Impact Assessment has not been prepared for this instrument because the costs and benefits to business are expected to fall below £5 million per calendar year. The technical and administrative amendments made in this SI continue to maintain the existing car and van CO_2 regulatory standards, therefore no regulatory burden is expected.

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 the regulations as they stand consider the needs of small businesses. An exemption for vehicle manufacturers registering fewer than 1,000 vehicles into the EU market per calendar year already exists in order to mitigate the impacts on small businesses. The 1,000 vehicle de minimis threshold has already been retained in UK law, and will remain unaffected by this instrument.

13.3 The basis for the final decision on what action to take to assist small businesses is due to the fact this instrument maintains the current regulatory position and is not expected to have any further impacts on small businesses.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Trudy Harrison MP has made the following statement: "A review clause is deemed inappropriate for this SI for the following reasons; the impacts fall under £5 million a year; the amendments are of a technical nature therefore there is no policy reason for a review and an existing review is planned for Regulation 2019/631 as amended for 2023, in line with Article 15 of that Regulation."

15. Contact

15.1 Alexandra Geraghty at the Department for Transport Telephone: 07866012746 or email: alexandra.geraghty@dft.gov.uk can be contacted with any queries regarding the instrument.

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

15.3 Trudy Harrison MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.