EXPLANATORY MEMORANDUM TO

THE VEHICLE EMISSIONS TRADING SCHEMES (AMENDMENT) ORDER 2025

2025 No. 678

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 Emissions Vehicle Regulations, at the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 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.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Vehicle Emissions Trading Schemes Order 2023 ("the 2023 Order") and the Vehicle Emissions Trading Schemes (Amendment) Order 2024 ("the 2024 Order") to specify how provisions of Regulation (EU) 2019/631 (which were saved by the 2023 Order and 2024 Order) are administered. This instrument enables the Secretary of State to calculate the specific CO_2 emission targets for vehicle manufacturers under Regulation (EU) 2019/631 using inputs from UK or EU derived values.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Regulation (EU) 2019/631 ("the Regulation") is assimilated law that set specific CO_2 emissions targets for manufacturers registering new cars and new light commercial vehicles ("vans") in the UK. Assimilated law is EU law that was retained in the UK following EU Exit. If a manufacturer exceeds their specific CO_2 emissions target, they are liable to pay an excess emissions premium.

5.2 Prior to EU Exit, DfT held several consultations and workshops on the retention and function of the Regulation. In 2020, DfT confirmed that EU values would be used (within the first two formulas of Annex I) when calculating the specific CO_2 emissions target. Government guidance[1] and workshops reiterated this approach.

5.3 A discrepancy has since been identified in DfT's approach to use EU values, as the scope of the Regulation[2] only permits UK values to be used (when calculating the relevant targets), contrary to the policy intention and the approach set out in guidance.

5.4 To reconcile this discrepancy, this instrument enables manufacturers to receive the higher specific CO_2 emissions target from either the EU-derived approach (as previously communicated by DfT) or a UK-derived approach (as strictly read from the Regulation).

5.5 The CO_2-reduction obligations in Regulation (EU) 2019/631 are fully replaced from 2025 onwards by the 2023 Order and the 2024 Order, so this instrument delivers an interim measure to correct the discrepancy in target setting for the 2021-2024[3] compliance years.

5.6 Manufacturers' specific CO_2 emissions targets from the Regulation will inform the CO_2 baseline targets under the new CO_2 regulation scheme set up by the 2023 Order.

What was the previous policy, how is this different?

5.7 The previous policy intention was to use some EU values in the formula to calculate the specific CO_2 emission targets for the Regulation.

5.8 Following the identification of a discrepancy between the policy intention and the wording of the Regulation, DfT's new policy approach is to ensure fairness by enabling manufacturers to receive the higher of either an EU-derived (as communicated in DfT's previously published guidance) or UK-derived approach (as provided for by the Regulation) to calculate specific CO_2 emissions targets.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument enables some EU values to also be used in parts of the calculation for specific emissions CO_2 targets under the Regulation. This means EU or UK values can be used, whichever is most beneficial to the manufacturer. This instrument delivers this legislative change by amending the savings provisions in Article 116 of the 2023 Order and Article 25 of the 2024 Order.

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[1] https://www.vehicle-certification-agency.gov.uk/fuel-consumption-co2/average-emissions-monitoring/ New Car and Van CO2 Regulations Guidance 2022 V3 (Section 7. Calculation of emission targets and performance)

[2] S.I. 2020/1418 and S.I. 2021/898 amended the scope (Article 2) of the Regulation to Great Britain and then to the UK (respectively).

[3] The Regulation applies for compliance to the UK in 2021-2023 and to Northern Ireland only in 2024.

Why was this approach taken to change the law?

6.2 The 2023 Order largely revoked the Regulation in Great Britain but saved certain duties and powers to complete the administration of 2021-2023 compliance years. The 2023 Order also amended the Regulation to work in a Northern Ireland context only.

6.3 The 2024 Order then brought Northern Ireland into the decarbonisation provisions that were established by the 2023 Order while largely revoking the Regulation in Northern Ireland, saving certain duties and powers for the administration of the 2024 compliance year. Compliance for 2021-23 in the UK and 2024 in Northern Ireland is yet to be completed.

6.4 Given the Secretary of State will be exercising the saved provisions in monitoring and enforcing the Regulation (and calculating the specific CO_2 emissions targets), the 2023 Order and 2024 Order are the appropriate place for the amendments to be made.

7. Consultation

Summary of consultation outcome and methodology

7.1 On 24 December 2024, the UK Government, the Department for Infrastructure (Northern Ireland), the Welsh Government, and the Scottish Government launched a public consultation[4] seeking views on a number of proposals relating to the transition to zero-emission cars and vans, including the proposal to correct the legislative discrepancy. As part of this, DfT also delivered a series of workshops with industry, including one workshop specifically focused on the proposal to rectify the discrepancy. The consultation closed on 18 February 2025.

7.2 The consultation received over 600 responses, from a range of stakeholders including vehicle manufacturers, chargepoint operators, and non-government organisations.

7.3 The consultation posed the following question: "Question 17: Do you agree with the proposal to allow UK derived or EU derived Worldwide Harmonised Light Vehicle Test Procedure ("WLTP") specific emission reference targets to apply from 2021-2023 in the United Kingdom, and in 2024 in Northern Ireland? If not, why?"

7.4 A significant portion of industry respondents to this question agreed with the proposal set out in the consultation to permit both EU and UK inputs for the purposes of calculating specific emissions targets under the Regulation. Both industry and individual stakeholders stated the preferred approach would result in a fair outcome for all manufacturers and would precipitate the publishing of the 2023 Order baseline targets.

7.5 Some industry stakeholders noted that certainty on the proposal should be provided in advance of the trading window in November 2025 (under the 2023 Order). An industry respondent noted that the outcome of this proposal should not jeopardise the compliance, or commercial arrangements of manufacturers complying with the regulation as a pool participant.

7.6 The joint government response to the consultation was subsequently published on 7 April 2025 and noted that government would bring forward this instrument to implement the proposal as soon as possible and ahead of the trading window in November 2025.

[4] https://www.gov.uk/government/consultations/phasing-out-sales-of-new-petrol-and-diesel-cars-from-2030-and-supporting-the-zev-transition

7.7 Alongside the consultation, the UK Government and Devolved Governments jointly commissioned the Committee on Climate Change ("CCC") for advice on this instrument in accordance with section 48 of the Climate Change Act 2008. The CCC issued this advice on 28 May 2025 and published it on its website[5].

8. Applicable Guidance

8.1 DfT will update the guidance for the Regulation[6] and the 2023 Order[7] and publish these documents by 9 October 2025 to align with this instrument coming into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as the measure is not within the scope of the Better Regulation Framework. However, a full cost benefit analysis is published alongside this Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on business, charities or voluntary bodies because the instrument rectifies a discrepancy. Impacts are experienced by those groups purchasing new petrol or diesel fuelled cars or vans, which we expect to be marginally less fuel efficient as a result of this instrument. This could result in slightly higher costs for fuel, which would be offset very slightly by lower upfront prices for vehicles. Further detail on monetised impacts is included in the cost benefit analysis.

9.3 DfT's analysis indicates that implementation of this instrument creates a minor carbon impact on the overall savings to be delivered by the 2023 Order, potentially resulting in greater emissions being emitted into the environment.

9.4 However, the 2023 Order remains the single largest carbon saving measure across the whole economy between 2024-2050, in the United Kingdom. Further detail on the carbon impact is included within the cost benefit analysis.

9.5 This instrument impacts small or micro businesses, but to no greater or lesser degree than other business.

9.6 To minimise the impact of the overall regulatory requirements on small or micro businesses, derogations and exemptions from aspects of the regulatory requirements are offered. Under the Regulation, smaller volume vehicle manufacturers received derogated CO_2 targets for 2021 – 2024. Additionally, vehicle manufacturers that registered fewer than 1,000 new vehicles in the UK (per calendar year) were also exempted from the Regulation. Separately, under the 2023 Order, manufacturers registering fewer than 1,000 non-zero emission cars or vans are exempt from the CO_2 regulation schemes.

9.7 There is no, or no significant, impact on the public sector. Whilst this instrument may indirectly impact people with protected characteristics in the short-term, the impacts

[5] https://www.theccc.org.uk/publication/letter-advice-on-zero-emissions-vehicle-mandate-and-carbon-dioxide-regulations-for-new-cars/
[6] https://www.vehicle-certification-agency.gov.uk/fuel-consumption-co2/average-emissions-monitoring/
[7] https://www.gov.uk/government/publications/vehicle-emissions-trading-schemes-how-to-comply

are not expected to be significant especially when considered alongside existing regulatory mitigations already in place.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 In accordance with Article 118 of the 2023 Order, the Secretary of State for Transport is under an existing duty to review the regulatory provisions contained in 2023 Order and publish reports setting out the conclusions of the review. Reports must be published at intervals not exceeding five years.

10.2 Therefore, no review provision has been included in this instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument corrects defects in the 2023 Order and 2024 Order. Therefore, it is appropriate to apply the free issue procedure to this instrument.

12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State for the Future of Roads at the Department for Transport has made the following statement regarding Human Rights:

12.2 "In my view the provisions of the Vehicle Emissions Trading Schemes (Amendment) Order 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate to the withdrawal of the United Kingdom from the European Union because it amends how provisions that save revoked assimilated EU law are applied.