

EXPLANATORY MEMORANDUM TO
THE ROAD VEHICLES (DEFEAT DEVICES, FUEL ECONOMY AND TYPE-APPROVAL) (AMENDMENT) REGULATIONS 2020

2020 No. 229

1. Introduction

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

2. Purpose of the instrument

2.1 These Regulations amend the commencement date of regulation 4(b) of the Road Vehicles (Defeat Devices, Fuel Economy and Type-Approval) (Amendment) Regulations 2018 (S.I. 2018/673) (“the 2018 Regulations”) so as to align dates between amendments relating to the availability of consumer information on CO₂ emissions; and amendments relating to liability of Vehicle Excise Duty (“VED”) on CO₂ emissions for all new cars.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As these Regulations are subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland.

5. European Convention on Human Rights

5.1 As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

6. Legislative Context

6.1 These Regulations are required to ensure that the UK fulfils its obligations under the European Union (Withdrawal Agreement) Act 2020 to transpose EU law into domestic law until the end of the Implementation Period. This obligation will expire at the end of the Implementation Period, on 31st December 2020.

6.2 The Passenger Car (Fuel Consumption and CO₂ Emissions Information) Regulations 2001 (S.I. 2001/3523) (“the 2001 Regulations”) implemented Directive 1999/94/EC

relating to the availability of consumer information on fuel economy and CO2 emissions, in respect of the marketing of new passenger cars. Such information is referred to in the 2001 Regulations as “official fuel consumption” and “official specific emissions of CO2”. Regulation 4(b) of the 2018 Regulations implements Regulation (EU) No. 2017/1151/EC by amending the 2001 Regulations so that the definition of “official specific emissions of CO2” changes from the New European Driving Cycle (“NEDC”) CO2 emissions test to the Worldwide Harmonised Light Vehicle Test Procedure (“WLTP”).

- 6.3 The coming into force of regulation 4(b) of the 2018 Regulations is currently 6th April 2020. These Regulations amend the date to 1st April 2020 so that it aligns with the date that the test procedure for determining VED changes from NEDC to WLTP.

7. Policy background

What is being done and why?

- 7.1 Currently, on first registration new cars are liable to pay VED based on CO2 emission figures provided under the NEDC test procedure. The Vehicle Excise and Registration Act 1994 (“VERA”) sets out the relevant provisions at Schedule 1, Part 1AA, paragraph 1GA of VERA.
- 7.2 In the Autumn Budget 2017 the Government announced that the test procedure for determining VED would be changing from NEDC to WLTP for all new cars registered from 1st April 2020.
- 7.3 To implement the policy announcement in 2017, it has been proposed that the Finance Bill 2020 will amend Schedule 1, Part 1AA, paragraph 1GA of VERA, in order to legislate the change to WLTP on 1st April 2020.
- 7.4 The overall objective of these Regulations is to align the dates between the amendment to the 2001 Regulations and the amendment to VED, so that both changes come into effect on 1st April 2020.
- 7.5 This is to ensure that consumers looking to purchase a new vehicle are accurately informed of the environmental impact of that specific vehicle and the costs of VED during their period of ownership.

8. European Union (Withdrawal Agreement) Act 2020/Withdrawal of the United Kingdom from the European Union

- 8.1 These Regulations do not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are currently no plans to consolidate the legislation amended by these Regulations.

10. Consultation outcome

- 10.1 DfT previously conducted a public consultation on proposals related to the 2018 Regulations which ran for 4 weeks from 2nd February 2018 to 2nd March 2018 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714540/road-vehicles-consultation-response.pdf). This consultation included proposals on the date to change to the WLTP test for CO2 emissions. Following this consultation DfT decided to delay the introduction of the new CO2

emissions figures to the date when they were expected to become relevant for taxation and other vehicle classification criteria. These Regulations seek to implement this decision and align the introduction of the new CO₂ emissions test with the change in VED.

- 10.2 There has been no further consultation regarding these Regulations. Amending the date from 6th April 2020 to 1st April 2020 is necessary to ensure alignment with the date that the test procedure for determining VED changes from NEDC to WLTP as this is the date manufacturers, car dealerships and consumers would expect the correct information to be displayed.

11. Guidance

- 11.1 Industry and consumer guidance on the changeover date will be updated on the Vehicle Certification Agency (“VCA”) website where information is currently contained: <https://www.vehicle-certification-agency.gov.uk/fcb/fuel-consumption-labelling.asp>.
- 11.2 In support of this amendment, the VCA will issue guidance to their distribution network to advise on the changeover date and the legal requirement to display the correct information from the 1st April 2020.

12. Impact

- 12.1 There is no significant impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because it maintains the current regulatory position and has no, or no significant impact on business, charities, voluntary bodies or the public sector.

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.
- 13.3 The basis for the final decision on what action to take to assist small businesses was the previous public consultation (see paragraph 10) and the actions taken to minimise regulatory burdens when amendments were introduced in the 2018 Regulations. These Regulations maintain the current regulatory position and are not expected to have any further impact, so it is not considered necessary to take additional action to minimise the impact of the requirements on small businesses.

14. Monitoring & review

- 14.1 These Regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Rachel Maclean MP has made the following statement:
- “A review provision is not appropriate because a review clause already exists in the 2001 Regulations which are being amended; these Regulations are making a minor amendment to a commencement date in the 2018 Regulations, which in turn amends a provision in the 2001 Regulations which contains a review clause at regulation 12.”

14.2 In terms of general monitoring and review, the DfT is in regular dialogue with the VCA, an executive agency of the Department and is also in regular discussion with industry associations and other stakeholders over the appropriateness of national approval schemes and the publication of fuel consumption data.

15. Contact

15.1 Matt Edwards at the Department for Transport, Telephone: 07773 233937 or email: matt.edwards@dft.gov.uk can be contacted with any queries regarding this 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 Rachel Maclean MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.