

2019 No. 550

EXITING THE EUROPEAN UNION

ROAD TRAFFIC

ENVIRONMENTAL PROTECTION

The Road Vehicle Emission Performance Standards (Cars and Vans) (Amendment) (EU Exit) Regulations 2019

Made - - - - *11th March 2019*

Coming into force in accordance with regulation 1

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The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Road Vehicle Emission Performance Standards (Cars and Vans) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

(a) 2018 c. 16.

PART 2

Amendment of retained direct EU legislation: cars

CHAPTER 1

Amendment of Regulation (EC) No 443/2009

Amendment of Regulation (EC) No 443/2009

2.—(1) Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community’s integrated approach to reduce CO₂ emissions from light-duty vehicles is amended as follows.

(2) In Article 1—

(a) in the first paragraph—

- (i) omit “ensure the proper functioning of the internal market and to”,
- (ii) for “European Community” substitute “United Kingdom”,

(b) omit the third paragraph.

(3) In Article 2—

(a) in paragraph 1, for “Community” in both places where it appears substitute “United Kingdom”,

(b) in paragraph 2, for “Community” in both places where it appears substitute “United Kingdom”,

(c) in paragraph 4—

- (i) omit “With effect from 1 January 2012, “,
- (ii) for “Union” substitute “United Kingdom”.

(4) In Article 3, in paragraph 1 after point (g) insert—

“(h) ‘passenger cars’ and ‘new passenger cars’ have the meanings given in Article 2(1).”.

(5) In Article 4—

(a) in the first paragraph, for “calendar year commencing 1 January 2012” substitute “period beginning with exit day and ending with 31 December 2019”,

(b) in the second paragraph—

- (i) after “year” insert “, or part year in the case of 2019,”,
- (ii) omit the first three indents,
- (iii) in the fourth indent for “from 2015 to” substitute “in”.

(6) In Article 5—

(a) omit the first four indents,

(b) in the fifth indent, for “2016” substitute “2019”.

(7) Omit Article 6.

(8) In Article 7—

(a) in paragraph 2—

- (i) after “more calendar years” insert “, or part year in the case of 2019”,
- (ii) for “file the following information with the Commission” substitute “provide the following information to the Secretary of State”,

(b) in paragraph 3, for “Commission” substitute “Secretary of State”,

(c) in paragraph 4, for “Commission” substitute “Secretary of State”,

- (d) in paragraph 5—
 - (i) for “Articles 81 and 82 of the Treaty” substitute “sections 2 (agreements etc preventing, restricting or distorting competition) and 18 (abuse of dominant position) of the Competition Act 1998(a)”,
 - (ii) for “Community competition rules” substitute “any enactment relating to competition”,
 - (e) in paragraph 7, for “filed with the Commission” substitute “provided to the Secretary of State”,
 - (f) after paragraph 7 insert—

“8. Information required to be provided to the Secretary of State by virtue of paragraph 2 or 4 must:

 - (a) be in writing and dated,
 - (b) include the name and address of the pool manager to whom the Secretary of State may respond,
 - (c) include the names of the other manufacturers in the pool,
 - (d) be sent to the Secretary of State by post, delivered by hand or, with the express agreement of the Secretary of State, sent by electronic means.”.
- (9) In Article 8—
- (a) in paragraph 1—
 - (i) in the first sentence, for “calendar year commencing 1 January 2010” substitute “period beginning with exit day and ending with 31 December 2019”,
 - (ii) in the first sentence, for “each Member State” substitute “the Secretary of State”,
 - (iii) in the first sentence, for “its territory” substitute “the United Kingdom”,
 - (iv) in the second sentence, for “each Member State” substitute “the United Kingdom”,
 - (v) omit the third sentence,
 - (vi) in the fourth sentence, for “Each Member State” substitute “The Secretary of State”,
 - (vii) at the end insert—

“The Secretary of State may appoint a person to carry out the Secretary of State’s functions under this paragraph.”,
 - (b) for paragraph 2 substitute—

“2. The monitoring information specified in points 1 and 3 of Part A of Annex 2 must be determined in accordance with Part B, and collected in accordance with Part C, of that Annex.”,
 - (c) omit paragraph 3,
 - (d) in paragraph 4—
 - (i) in the first subparagraph—
 - (aa) for “Commission” substitute “Secretary of State”,
 - (bb) for “reported by Member States” substitute “recorded”,
 - (cc) for “2011” substitute “2020”,
 - (dd) at the end of each of points (a), (b) and (c) insert “, or part year in the case of 2019”,
 - (ii) in the second subparagraph—
 - (aa) for “Commission” substitute “Secretary of State”,

(a) 1998 c. 41.

- (bb) omit “for each Member State”,
- (e) for paragraph 5 substitute—
 - “5. A manufacturer may, within three months of being notified of the provisional calculation under paragraph 4, notify the Secretary of State of any errors in the data. Notification given by a manufacturer must:
 - (a) be in writing and dated,
 - (b) include:
 - (i) the provisional calculation,
 - (ii) the specific emissions target for the preceding year, or part year in the case of 2019,
 - (iii) the manufacturer’s calculation of their average specific emissions of CO₂,
 - (iv) any evidence in support of the calculation in (iii),
 - (c) be sent to the Secretary of State by post, delivered by hand or, with the express agreement of the Secretary of State, sent by electronic means.

Where notification is given by a manufacturer, the Secretary of State must confirm or amend the provisional calculation under paragraph 4, and notify the manufacturer accordingly by 31 October.”,

- (f) in paragraph 6—
 - (i) omit “in relation to the calendar year 2010 or 2011,”,
 - (ii) after “for that year” insert “or part year in the case of 2019,”,
 - (iii) for “Commission” in both places where it appears substitute “Secretary of State”,
- (g) for paragraph 7 substitute—
 - “7. The Secretary of State may appoint a person to act on behalf of the Secretary of State in collecting and communicating monitoring data in accordance with this Regulation.”,
- (h) omit paragraph 8,
- (i) for paragraph 9 substitute—
 - “9. Regulations may—
 - (a) make provision about the procedures for monitoring and reporting of data under this Article and on the application of Annex 2,
 - (b) amend the data requirements and data parameters set out in Annex 2.”.

- (10) After Article 8 insert—

“Article 8a

Appeals

1. Where:
 - (a) a manufacturer gives notification to the Secretary of State under Article 8(5),
 - (b) the Secretary of State does not agree the manufacturer’s calculation of their average specific emissions of CO₂, and
 - (c) the Secretary of State notifies the manufacturer under Article 8(6) that it has exceeded its specific emissions target,

the manufacturer or pool manager may appeal against the notification under Article 8(6) to the First-tier Tribunal on the ground that the Secretary of State’s calculation under Article 8(5) was based on an error of fact.

2. The Secretary of State may not impose an excess emissions premium on the manufacturer or, in the case of a pool, the pool manager under Article 9 pending final determination or withdrawal of the appeal.

3. The First-tier Tribunal may—
 - (a) confirm the Secretary of State’s provisional calculation, or
 - (b) substitute its own calculation.”.

(11) In Article 9—

- (a) in paragraph 1—
 - (i) for “each calendar year from 2012 onwards” substitute “the period beginning with exit day and ending with 31 December 2019 and each subsequent calendar year”,
 - (ii) for “Commission” substitute “Secretary of State”,
- (b) in paragraph 2—
 - (i) for “formulae” substitute “formula”,
 - (ii) omit point (a),
 - (iii) in point (b) omit “(b) From 2019:”,
 - (iv) in the formula for “95 €/g” substitute “£83/g”,
 - (v) after “calendar year” insert “, or part year in the case of 2019,”,
- (c) for paragraphs 3 and 4 substitute—

“3. Where the Secretary of State decides to impose an excess emissions premium under paragraph 1, the Secretary of State must serve a notice of civil penalty on the manufacturer or, in the case of a pool, the pool manager.

A notice of civil penalty must:

- (a) be in writing;
- (b) be dated;
- (c) set out the reasons for which the excess emissions premium is imposed;
- (d) set out the amount of the excess emissions premium and how it has been calculated;
- (e) set out how to pay the excess emissions premium;
- (f) require payment before the end of a period of 28 days after the date of the notice;
- (g) include an explanation of the steps the manufacturer or, in the case of a pool, the pool manager, must take if they wish to object to the excess emissions premium, including the manner and form in which any notice of objection must be served; and
- (h) include an explanation of the steps the Secretary of State may take to recover any unpaid excess emissions premium.

4. The amount of any excess emissions premium payable under this Article—

- (a) in England and Wales is recoverable as if it were payable under an order of the county court in England and Wales;
- (b) in Scotland may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland;
- (c) in Northern Ireland is recoverable as if it were payable under an order of a county court in Northern Ireland.

5. Where action is taken under this Article for the recovery of any excess emissions premium, the amount payable is—

- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc.)**(a)** as if it were a judgment entered in the county court;
- (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments)**(b)** as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

6. Any excess emissions premium received by the Secretary of State must be paid into the Consolidated Fund.”.

(12) In Article 10—

- (a) in paragraph 1—
 - (i) for “2011, the Commission” substitute “2020, the Secretary of State”,
 - (ii) in point (d), omit “in the Community”,
 - (iii) in point (e), omit “in the Community”,
 - (iv) after point (e) insert—

“(f) whether the manufacturer has complied with the requirements of Article 4 with respect to the preceding calendar year.”,
- (b) for paragraph 2 substitute—

“2. Any reference in paragraph 1 to a calendar year includes, in the case of 2019, a part year.”.

(13) In Article 11—

- (a) in paragraph 1—
 - (i) for “which is responsible for fewer than 10 000 new passenger cars registered in the Community per calendar year and” substitute “where the number of new passenger cars registered in the United Kingdom for which that manufacturer is responsible per calendar year is less than the small volume derogation threshold (calculated in accordance with Annex 3), and where the manufacturer”,
 - (ii) in point (b) for “that is responsible in total for fewer than 10 000 new passenger cars registered in the Community per calendar year” substitute “where the number of new passenger cars registered in the United Kingdom for which that group is responsible per calendar year is less than the small volume derogation threshold”,
- (b) in paragraph 2, for “Commission” substitute “Secretary of State”,
- (c) in paragraph 3, for “Commission” in both places where it appears substitute “Secretary of State”,
- (d) in paragraph 4—
 - (i) for “which is responsible, together with all of its connected undertakings, for between 10 000 and 300 000 new passenger cars registered in the Community per calendar year” substitute “where the number of new passenger cars registered in the United Kingdom for which that manufacturer, together with all of its connected undertakings, is responsible per calendar year is not less than the small volume derogation threshold and is not more than the niche volume derogation threshold (calculated in accordance with Annex 3)”,
 - (ii) for “Commission” in each place where it appears substitute “Secretary of State”,

(a) 2003 c.39; section 98 has been amended by sections 48(1) and 106(2) of, and paragraph 55(1), (2), (3)(a) and (b) of Schedule 8 and paragraph 15 of Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) and section 17(5) of, and paragraph 40(a) and (c) of Part 2 of Schedule 9 to, the Crime and Courts Act 2013 (c.22). Further amendments made by the Tribunals, Courts and Enforcement Act 2007 have yet to be brought into force.

(b) S.I. 1981/226 (N.I. 6).

- (e) in paragraph 5, for “Commission” substitute “Secretary of State”,
 - (f) in paragraph 6—
 - (i) for “Commission” substitute “Secretary of State”,
 - (ii) for “it” substitute “Secretary of State”,
 - (g) in paragraph 7, for “Commission” substitute “Secretary of State”
 - (h) in paragraph 8, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 14a laying down rules to” substitute “Regulations may”,
 - (i) in paragraph 9, for “, subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents” substitute “by the Secretary of State, subject to any relevant provisions of the data protection legislation (within the meaning of section 3(9) of the Data Protection Act 2018(a))”.
- (14) In Article 12—
- (a) omit paragraph 2,
 - (b) in paragraph 3, for “Commission” substitute “Secretary of State”,
 - (c) omit paragraph 4.
- (15) In Article 13—
- (a) omit paragraph 1,
 - (b) in paragraph 2—
 - (i) for “By 31 October 2014, and every three years thereafter, measures shall be adopted to” substitute “Regulations may”,
 - (ii) omit the second and third subparagraphs,
 - (c) omit paragraphs 3, 4, 5 and 6,
 - (d) in paragraph 7—
 - (i) in the first subparagraph, for “The Commission shall, by means of implementing acts,” substitute “Regulations may”,
 - (ii) in the first subparagraph, omit the second sentence,
 - (iii) in the second subparagraph, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 14a in order to” substitute “Regulations may”.
- (16) For Article 14 substitute—

“Article 14

Regulations

1. Any power to make regulations under this Regulation—
 - (a) is exercisable by the Secretary of State by statutory instrument; and
 - (b) includes power to make:
 - (i) different provision for different cases or descriptions of case, different circumstances or different purposes;
 - (ii) consequential, incidental, supplementary, transitional or transitory provision or savings.
 2. A statutory instrument containing regulations under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (17) Omit Articles 14a, 15 and 16.

(a) 2018 c. 12.

- (18) After Article 16, omit the sentence beginning “This Regulation shall be binding”.
- (19) In Annex 1—
- (a) in paragraph 1, omit points (a) and (b),
 - (b) in paragraph 2, after “year” in both places where it appears insert “, or part year in the case of 2019,”,
 - (c) in paragraph 5, for “granted by the Commission” substitute “set by the Secretary of State”.
- (20) In Part A of Annex 2—
- (a) in paragraph 1—
 - (i) in the first subparagraph, for “Member States shall, for each calendar year” substitute “The Secretary of State shall, for each calendar year, or part year in the case of 2019”,
 - (ii) in the first subparagraph, for “their territory” substitute “the United Kingdom”,
 - (iii) omit the second, third and fourth subparagraphs,
 - (b) in paragraph 2—
 - (i) for “Member States” in each place where it appears substitute “the Secretary of State”,
 - (ii) in point (b), for “EC” substitute “UK”,
 - (iii) omit point (e).
- (21) In Part B of Annex 2—
- (a) in the opening words, for “Member States are” substitute “the Secretary of State is”,
 - (b) in paragraph 1—
 - (i) for “Member States” substitute “The Secretary of State”,
 - (ii) for “EC” substitute “UK”,
 - (c) omit paragraph 3.
- (22) In Part C of Annex 2—
- (a) in the opening words, for “For each year, Member States shall report” substitute “For each year, or part year in the case of 2019, the Secretary of State shall collect”,
 - (b) in section 1—
 - (i) omit “Member State”,
 - (ii) for “EC” substitute “UK”,
 - (c) in section 2, for “Member State registry” substitute “UK registry”.
- (23) After Annex 2, insert—

“ANNEX 3

DEROGATION THRESHOLDS

Small volume derogation thresholds

1. For 2019—
- (a) the small volume derogation threshold in relation to a manufacturer that was responsible for new passenger cars registered in both the United Kingdom and in an EEA state in the period beginning with 1 January 2017 and ending with 31 December 2017 (“the relevant period”) is:

$$\left(\frac{UK}{EEA} \times 10,000 \right) \times \left(\frac{d}{365} \right),$$

- (b) the small volume derogation threshold in relation to a manufacturer not falling within point (a) is:

$$1,700 \times \left(\frac{d}{365} \right),$$

where:

“d” is the number of days in the period beginning with exit day and ending with 31 December 2019,

“EEA” is the number of new passenger cars registered in an EEA state in the relevant period for which that manufacturer was responsible, and

“UK” is the number of new passenger cars registered in the United Kingdom in the relevant period for which that manufacturer was responsible.

2. For each of the years from 2020 to 2024—

- (a) the small volume derogation threshold in relation to a manufacturer that was responsible for new passenger cars registered in both the United Kingdom and in an EEA state in the period beginning with 1 January 2017 and ending with 31 December 2017 (“the relevant period”) is:

$$\frac{UK}{EEA} \times 10,000$$

where:

“EEA” is the number of new passenger cars registered in an EEA state in the relevant period for which that manufacturer was responsible, and

“UK” is the number of new passenger cars registered in the United Kingdom in the relevant period for which that manufacturer was responsible,

- (b) the small volume derogation threshold in relation to a manufacturer not falling within point (a) is 1,700.

3. For 2025 and subsequent years, the small volume derogation threshold shall be such amount as is specified in Regulations.

Niche volume derogation thresholds

4. For 2019—

- (a) the niche volume derogation threshold in relation to a manufacturer that was responsible for new passenger cars registered in both the United Kingdom and in an EEA state in the period beginning with 1 January 2017 and ending with 31 December 2017 (“the relevant period”) is:

$$\left(\frac{UK}{EEA} \times 300,000 \right) \times \left(\frac{d}{365} \right)$$

where:

“d” is the number of days in the period beginning with exit day and ending with 31 December 2019,

“EEA” is the number of new passenger cars registered in an EEA state in the relevant period for which that manufacturer was responsible, and

“UK” is the number of new passenger cars registered in the United Kingdom in the relevant period for which that manufacturer was responsible,

- (b) the niche volume derogation threshold in relation to a manufacturer not falling within point (a) is the threshold in paragraph 1(b).

5. For each of the years from 2020 to 2024—
- (a) the niche volume derogation threshold in relation to a manufacturer that was responsible for new passenger cars registered in both the United Kingdom and in an EEA state in the period beginning with 1 January 2017 and ending with 31 December 2017 (“the relevant period”) is:

$$\frac{UK}{EEA} \times 300,000$$

where:

“EEA” is the number of new passenger cars registered in an EEA state in the relevant period for which that manufacturer was responsible, and

“UK” is the number of new passenger cars registered in the United Kingdom in the relevant period for which that manufacturer was responsible,

- (b) the small volume derogation threshold in relation to a manufacturer not falling within point (a) is 50,000.
6. For 2025 and subsequent years, the niche volume derogation threshold shall be such amount as is specified in Regulations.”.

CHAPTER 2

Amendment of tertiary legislation made pursuant to Regulation (EC) No 443/2009

Amendment of Commission Regulation (EU) No 1014/2010

3.—(1) Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) In Article 1 after point (5) insert—

“(6) ‘Secretary of State’ includes any person authorised by the Secretary of State to carry out functions under this Regulation, or under Regulation (EC) No 443/2009 of the European Parliament and of the Council, on behalf of the Secretary of State.”.

(3) Omit Article 2.

(4) In Article 3—

- (a) in paragraph 1, for “each Member State” substitute “the Secretary of State”,
- (b) in paragraph 2, after “year” insert “, or part year in the case of 2019”,
- (c) in paragraph 3—
- (i) for “the Member State shall report” insert “the Secretary of State shall treat”,
- (ii) after “vehicle” insert “as the manufacturer”,
- (d) in paragraph 4, for “reported” substitute “recorded”,
- (e) in paragraph 5—
- (i) for “In reporting” substitute “When including”,
- (ii) for “competent authority shall provide” substitute “Secretary of State shall consider”,
- (f) in paragraph 6—
- (i) for “competent authority shall report” substitute “Secretary of State shall use”,
- (ii) omit point (b) and the text which follows it,
- (g) in paragraph 7, for “Member State shall report” substitute “Secretary of State shall use”,
- (h) in paragraph 8, for “Member States” substitute “Secretary of State”.

(5) In Article 4—

- (a) for “Member States” substitute “Secretary of State”,

- (b) for “, verification and transmission” substitute “and verification”.
- (6) In Article 5—
- (a) in the heading, for “Member States” substitute “Secretary of State”,
 - (b) in the first paragraph—
 - (i) for “Member States” substitute “Secretary of State”,
 - (ii) in point (a), for “Article 5” substitute “Article 5a”,
 - (c) in the second paragraph, for “reported” substitute “compiled”,
 - (d) in the third paragraph—
 - (i) for the words from “a Member State” to “2018” substitute “the Secretary of State shall ensure that”,
 - (ii) for “reported” substitute “compiled”.
- (7) In Article 7—
- (a) in paragraph 1—
 - (i) for “Member States shall inform the Commission of” substitute “the Secretary of State shall calculate”,
 - (ii) for “their territory” substitute “the United Kingdom”,
 - (b) in paragraph 2—
 - (i) for “Member States” substitute “The Secretary of State”,
 - (ii) omit “reporting” in both places in which it occurs.
- (8) In Article 8—
- (a) in paragraph 1—
 - (i) for “2010” substitute “2019”,
 - (ii) for “Commission” in each place where it appears substitute “Secretary of State”,
 - (b) in paragraph 2—
 - (i) for “competent authority” substitute “Secretary of State”,
 - (ii) omit “taken from the list that is to be drawn up by the Commission on the basis of the names”,
 - (iii) for “That list” substitute “A list of those names”,
 - (iv) for “2010” substitute “2019”.
- (9) In Article 9—
- (a) in paragraph 1 to 4, for “Commission” in each place where it appears substitute “Secretary of State”,
 - (b) in paragraph 5—
 - (i) after “by mail” insert “ or delivered by hand”,
 - (ii) for the words “European Commission” to the end substitute—

“The Environment Strategy Team,
 The Department for Transport,
 Great Minster House,
 33 Horseferry Road,
 Westminster,
 London SW1P 4DR.

An electronic copy of the notification shall be sent for information to the following email address:

Environmental.Strategy@dft.gov.uk”.

(10) In Article 9a, in paragraph 1 omit “, from 1 January 2018,”.

(11) Omit Article 10.

(12) After Article 10, omit the sentence beginning “This Regulation shall be binding”.

Amendment of Commission Regulation (EU) No 63/2011

4.—(1) Commission Regulation (EU) 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) In Article 4, in point (b) of paragraph 1 for “Union” substitute “United Kingdom”.

(3) In Article 5—

(a) in paragraph 1, omit “, unless the average specific CO₂ emissions for that year are listed in Annex IV to this Regulation”,

(b) in paragraph 5, in point (b) of the unnumbered paragraph for “Union” substitute “United Kingdom”.

(4) In Article 6—

(a) in paragraph 1, omit “, unless the average specific CO₂ emissions for that year are listed in Annex IV to this Regulation”,

(b) in paragraph 3, for “Union” substitute “United Kingdom”.

(5) In Article 7—

(a) in the heading, for “Commission” substitute “Secretary of State”,

(b) in paragraph 1, for “Commission” in each place where it appears substitute “Secretary of State”,

(c) in paragraph 2, for “the Secretariat General of the European Commission, 1049 Brussels, Belgium” substitute “The Environment Strategy Team, The Department for Transport, Great Minster House, 33 Horseferry Road, Westminster, London SW1P 4DR”.

(6) Omit Article 8.

(7) Omit Article 9.

(8) After Article 9, omit the sentence beginning “This Regulation shall be binding”.

(9) In Annex 1—

(a) in the text preceding paragraph 1, for “EC-CO₂-LDV-IMPLEMENTATION@ec.europa.eu” substitute “Environmental.Strategy@dft.gov.uk”,

(b) in point 2.3, for “Union” substitute “United Kingdom”,

(c) in points 2.3.1, 2.3.2 and 2.3.3, for “EU” in each place where it appears substitute “United Kingdom”,

(d) in point 2.5, for “Union” substitute “United Kingdom”,

(e) in points 2.5.1, 2.5.2 and 2.5.3, for “EU” in each place where it appears substitute “United Kingdom”,

(f) in point 5.1, omit “if not included in Annex IV”,

(g) in point 6, for “Union” substitute “United Kingdom”,

(h) in point 7.3, for “Union” substitute “United Kingdom”,

(i) in points 8.2.1, 8.2.2 and 8.2.3, for “Union” in each place where it appears substitute “United Kingdom”.

(10) In Annex 2—

(a) in point 2.2, for “Union” substitute “United Kingdom”,

- (b) in points 2.2.1, 2.2.2 and 2.2.3, for “EU” in each place where it appears substitute “United Kingdom”,
 - (c) in point 2.3.2, for “Union” substitute “United Kingdom”,
 - (d) in points 2.3.2 and 2.3.3, for “EU” in both places where it appears substitute “United Kingdom”,
 - (e) in point 3.1, omit “if not included in Annex IV to this Regulation”,
 - (f) in point 3.2, in point (a) for “Union” substitute “United Kingdom”,
 - (g) in point 5, in the heading for “Union” substitute “United Kingdom” and omit “(concerns manufacturers not included in Annex IV)”,
 - (h) in point 5.3, for “EU” substitute “United Kingdom”.
- (11) Omit Annex 4.

Amendment of Commission Implementing Regulation (EU) No 725/2011

5.—(1) Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) In Article 2 in paragraph 1 omit “covered by the integrated approach referred to in Article 1 of Regulation (EC) No 443/2009”.

(3) In Article 3—

- (a) in point (b), for “Union” substitute “United Kingdom”,
- (b) in point (d), for “Commission” substitute “Secretary of State”,
- (c) in point (e)—
 - (i) the words from “a category” to “Article 41(6) of that Directive” become paragraph (i),
 - (ii) at the end of paragraph (i) insert—
 - “(ii) the Secretary of State; or
 - (iii) any person designated for this purpose by the Secretary of State”.

(4) In Article 4—

- (a) in paragraph 1, and points (c) and (e) of paragraph 2, for “Commission” in each place where it appears substitute “Secretary of State”,
- (b) in point (f)(ii) of paragraph 2 omit “as referred to in point (c) of Article 12(2) of Regulation (EC) No 443/2009 and”.

(5) In Article 6, in paragraph 2 for “Commission” substitute “Secretary of State”.

(6) In Article 9(3), in the second subparagraph for “Union” substitute “United Kingdom”.

(7) In Article 10—

- (a) for “Commission” in each place where it appears substitute “Secretary of State”,
- (b) in paragraph 2, in the second subparagraph omit “, subject to the application of the exceptions to the right to public access to documents specified in Regulation (EC) No 1049/2001”.

(8) In Article 11—

- (a) in paragraph 1—
 - (i) for “an approval authority within the meaning of Directive 2007/46/EC for an EC” substitute “the Secretary of State for a UK”,

- (ii) for “Article 6 of Directive 2007/46/EC” substitute “the Road Vehicles (Approval) Regulations 2009(a)”,
 - (iii) for “Commission” substitute “Secretary of State”,
 - (b) in paragraph 2, in the first subparagraph for the words “Directive 2007/46/EC” to the end substitute “the Road Vehicles (Approval) Regulations 2009”.
- (9) In Article 12, for “Commission” in each place where it appears substitute “Secretary of State”.
- (10) In Article 12a—
- (a) for “Commission” in each place where it appears substitute “Secretary of State”,
 - (b) in paragraph 4, in the second subparagraph omit “, subject to the application of the exceptions to the right to public access to documents specified in Regulation (EC) No 1049/2001”.
- (11) Omit Article 13.
- (12) Omit Article 15.
- (13) After Article 15, omit the sentence beginning “This Regulation shall be binding”.

Amendment of Commission Implementing Decision 2013/128/EU

6.—(1) Commission Implementing Decision 2013/128/EU of 13 March 2013 on the approval of the use of light emitting diodes in certain lighting functions of an M1 vehicle as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.

Amendment of Commission Implementing Decision 2013/341/EU

7.—(1) Commission Implementing Decision 2013/341/EU of 27 June 2013 on the approval of the Valeo Efficient Generation Alternator as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.
- (3) In the Annex, in paragraph 11 omit the second subparagraph.

Amendment of Commission Implementing Decision 2013/451/EU

8.—(1) Commission Implementing Decision 2013/451/EU of 10 September 2013 on the approval of the Daimler engine compartment encapsulation system as an innovative technology for reducing CO₂ emissions from new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.
- (3) In the Annex, in paragraph 6 omit the second subparagraph.

Amendment of Commission Implementing Decision 2013/529/EU

9.—(1) Commission Implementing Decision 2013/529/EU of 25 October 2013 on the approval of the Bosch system for navigation-based preconditioning of the battery state of charge for hybrid vehicles as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(a) S.I. 2009/717, as amended by S.I. 2011/1043 and 1946, 2013/602, and 2018/235, 236, 673 and 984.

- (2) Omit Article 2.
- (3) In the Annex, in paragraph 5 omit the second subparagraph.

Amendment of Commission Implementing Decision 2014/128/EU

10.—(1) Commission Implementing Decision 2014/128/EU of 10 March 2014 on the approval of the light emitting diodes low beam module ‘E-Light’ as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.
- (3) In the Annex, in paragraph 5 omit the second subparagraph.

Amendment of Commission Implementing Decision 2014/465/EU

11.—(1) Commission Implementing Decision 2014/465/EU of 16 July 2014 on the approval of the DENSO efficient alternator as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council and amending Commission Implementing Decision 2013/341/EU is amended as follows.

- (2) Omit Article 3.

Amendment of Commission Implementing Decision 2014/806/EU

12.—(1) Commission Implementing Decision 2014/806/EU of 18 November 2014 on the approval of the battery charging Webasto solar roof as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2015/158

13.—(1) Commission Implementing Decision (EU) 2015/158 of 30 January 2015 on the approval of two Robert Bosch GmbH high efficient alternators as the innovative technologies for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2015/206

14.—(1) Commission Implementing Decision (EU) 2015/206 of 9 February 2015 on the approval of the Daimler AG efficient exterior lighting using light emitting diodes as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2015/279

15.—(1) Commission Implementing Decision (EU) 2015/279 of 19 February 2015 on the approval of the battery charging Asola solar roof as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2015/295

16.—(1) Commission Implementing Decision (EU) 2015/295 of 24 February 2015 on the approval of the MELCO GXi efficient alternator as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2015/1132

17.—(1) Commission Implementing Decision (EU) 2015/1132 of 10 July 2015 on the approval of the Porsche AG coasting function as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2015/2280

18.—(1) Commission Implementing Decision (EU) 2015/2280 of 7 December 2015 on the approval of the DENSO efficient alternator as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2016/160

19.—(1) Commission Implementing Decision (EU) 2016/160 of 5 February 2016 on the approval of the Toyota Motor Europe efficient exterior lighting using light emitting diodes as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2016/265

20.—(1) Commission Implementing Decision (EU) 2016/265 of 25 February 2016 on the approval of the MELCO Motor Generator as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2016/362

21.—(1) Commission Implementing Decision (EU) 2016/362 of 11 March 2016 on the approval of the MAHLE Behr GmbH & Co. KG enthalpy storage tank as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2016/587

22.—(1) Commission Implementing Decision (EU) 2016/587 of 14 April 2016 on the approval of the technology used in efficient vehicle exterior lighting using light emitting diodes as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 5.

Amendment of Commission Implementing Decision (EU) 2016/588

23.—(1) Commission Implementing Decision (EU) 2016/588 of 14 April 2016 on the approval of the technology used in 12 Volt efficient alternators as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 5.

Amendment of Commission Implementing Decision (EU) 2016/1721

24.—(1) Commission Implementing Decision (EU) 2016/1721 of 26 September 2016 on the approval of the Toyota efficient exterior lighting using light emitting diodes for the use in non-externally chargeable hybrid electrified vehicles as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 2.

Amendment of Commission Implementing Decision (EU) 2016/1926

25.—(1) Commission Implementing Decision (EU) 2016/1926 of 3 November 2016 on the approval of the battery-charging photovoltaic roof as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 5.

(3) In the Annex, in paragraph 4 omit footnote (3).

Amendment of Commission Implementing Decision (EU) 2017/785

26.—(1) Commission Implementing Decision (EU) 2017/785 of 5 May 2017 on the approval of efficient 12 V motor-generators for use in conventional combustion engine powered passenger cars as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 6.

Amendment of Commission Implementing Decision (EU) 2017/1402

27.—(1) Commission Implementing Decision (EU) 2017/1402 of 28 July 2017 on the approval of the BMW AG engine idle coasting function as an innovative technology for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is amended as follows.

(2) Omit Article 5.

CHAPTER 3

Revocation of tertiary legislation made pursuant to Regulation (EC) No 443/2009

Revocation of Commission Decision 2012/100/EU of 17 February 2012

28. Commission Decision 2012/100/EU of 17 February 2012 on a method for the collection of premiums for excess CO₂ emissions from new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council is revoked.

PART 3

Amendment of retained direct EU legislation: vans

CHAPTER 1

Amendment of Regulation (EU) No 510/2011

Amendment of Regulation (EU) No 510/2011

29.—(1) Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union’s integrated approach to reduce CO₂ emissions from light-duty vehicles is amended as follows.

(2) In Article 1, in paragraph 2 for “Union” substitute “United Kingdom”.

(3) In Article 2—

- (a) in paragraph 1, for “Union” in both places where it appears substitute “United Kingdom”,
- (b) in paragraph 2, for “Union” in both places where it appears substitute “United Kingdom”,
- (c) in paragraph 4, for “Union” substitute “United Kingdom”.

(4) In Article 3, in paragraph 1 after point (k) insert—

“(l) ‘light commercial vehicles’ and ‘new light commercial vehicles’ have the meanings given in paragraph 1 of Article 2.”.

(5) In Article 4—

- (a) in the first paragraph, for “calendar year commencing 1 January 2014” substitute “period beginning with exit day and ending with 31 December 2019”,
- (b) for the third paragraph substitute—

“For the purpose of determining a manufacturer’s average specific emissions of CO₂, the total number of that manufacturer’s new light commercial vehicles registered in the relevant year, or part year in the case of 2019, shall be taken into account.”.

(6) In Article 5—

- (a) omit the first four indents,
- (b) in the fifth indent, for “2018” substitute “2019”.

(7) Omit Article 6.

(8) In Article 7—

- (a) in paragraph 2—
 - (i) after “more calendar years” insert “, or part year in the case of 2019”,
 - (ii) for “file the following information with the Commission” substitute “provide the following information to the Secretary of State”,
- (b) in paragraph 3, for “Commission” substitute “Secretary of State”,
- (c) in paragraph 4, for “Commission” substitute “Secretary of State”,
- (d) in paragraph 5—
 - (i) for “Articles 101 and 102 TFEU” substitute “sections 2 (agreements etc preventing, restricting or distorting competition) and 18 (abuse of dominant position) of the Competition Act 1998”,
 - (ii) for “Union competition rules” substitute “any enactment relating to competition”,
- (e) in paragraph 7, for “filed with the Commission” substitute “provided to the Secretary of State”,
- (f) after paragraph 7 insert—

“8. Information required to be provided to the Secretary of State by virtue of paragraph 2 or 4 must:

- (a) be in writing and dated,
- (b) include the name and address of the pool manager to whom the Secretary of State may respond,
- (c) include the names of the other manufacturers in the pool,
- (d) be sent to the Secretary of State by post, delivered by hand or, with the express agreement of the Secretary of State, sent by electronic means.”.

(9) In Article 8—

(a) for paragraph 1 substitute—

“1. For the period beginning with exit day and ending with 31 December 2019 and each subsequent calendar year, the Secretary of State shall record information for each new light commercial vehicle registered in the United Kingdom in accordance with Part A of Annex 2. This information shall be made available to the manufacturers and their designated importers or representatives in the United Kingdom. The Secretary of State may nominate a person to collect such data, and shall make every effort to ensure that this person operates in a transparent manner.”,

(b) omit paragraph 2,

(c) omit paragraph 3,

(d) in paragraph 4—

(i) in the first subparagraph—

(aa) for “Commission” in each place where it appears substitute “Secretary of State”,

(bb) for “reported by Member States” substitute “recorded”,

(cc) for “2013” substitute “2020”,

(dd) in each of points (a), (b) and (c), after “calendar year” insert “, or part year in the case of 2019”,

(ii) in the second subparagraph, omit “per Member State”,

(e) for paragraph 5 substitute—

“5. A manufacturer may, within three months of being notified of the provisional calculation under paragraph 4, notify the Secretary of State of any errors in the data. Notification given by a manufacturer must:

(a) be in writing and dated,

(b) include:

(i) the provisional calculation,

(ii) the specific emissions target for the preceding year, or part year in the case of 2019,

(iii) the manufacturer’s calculation of their average specific emissions of CO₂,

(iv) any evidence in support of the calculation in (iii),

(c) be sent to the Secretary of State by post, delivered by hand or, with the express agreement of the Secretary of State, sent by electronic means.”,

(f) in paragraph 6 for “Commission” substitute “Secretary of State”,

(g) omit paragraph 7,

(h) for paragraph 8 substitute—

“8. The vehicle registrations data used when registering a new vehicle with the Driver and Vehicle Licensing Agency is to be used to calculate a manufacturer’s average specific emissions of CO₂.”,

- (i) for paragraph 9 substitute—
 - “9. Regulations may—
 - (a) make provision about the procedures for monitoring and reporting of data under this Article and on the application of Annex 2,
 - (b) amend the data requirements and data parameters set out in Annex 2.”,
 - (j) omit paragraph 10.
- (10) After Article 8 insert—

“Article 8a

Appeals

- 1. Where:
 - (a) a manufacturer gives notification to the Secretary of State under Article 8(5),
 - (b) the Secretary of State does not agree the manufacturer’s calculation of their average specific emissions of CO₂, and
 - (c) the Secretary of State notifies the manufacturer under Article 8 that it has exceeded its specific emissions target,

the manufacturer or pool manager may appeal against the notification under Article 8(6) to the First-tier Tribunal on the ground that the Secretary of State’s provisional calculations under Article 8(5) was based on an error of fact.
- 2. The Secretary of State may not impose an excess emissions premium on the manufacturer or, in the case of a pool, the pool manager, under Article 9 pending final determination or withdrawal of the appeal.
- 3. The First-tier Tribunal may—
 - (a) confirm the Secretary of State’s provisional calculation, or
 - (b) substitute its own calculation.”.

- (11) In Article 9—
 - (a) in paragraph 1—
 - (i) for “from 1 January to 31 December 2014” substitute “beginning with exit day and ending with 31 December 2019”,
 - (ii) for “Commission” substitute “Secretary of State”,
 - (b) in paragraph 2—
 - (i) for “formulae” substitute “formula”,
 - (ii) omit point (a),
 - (iii) in point (b) omit “(b) from 2019:”,
 - (iv) in the formula for “EUR 95” substitute “£83”,
 - (c) for paragraphs 3 and 4 substitute—

“3. Where the Secretary of State decides to impose an excess emissions premium under paragraph 1, the Secretary of State must serve a notice of civil penalty on the manufacturer or, in the case of a pool, the pool manager.

A notice of civil penalty must:

- (a) be in writing;
- (b) be dated;
- (c) set out the reasons for which the excess emissions premium is imposed;
- (d) set out the amount of the excess emissions premium and how it has been calculated;
- (e) set out how to pay the excess emissions premium;

- (f) require payment before the end of a period of 28 days after the date of the notice;
- (g) include an explanation of the steps the manufacturer or, in the case of a pool, the pool manager, must take if they wish to object to the excess emissions premium, including the manner and form in which any notice of objection must be served; and
- (h) include an explanation of the steps the Secretary of State may take to recover any unpaid excess emissions premium.

4. The amount of any excess emissions premium payable under this Article—

- (a) in England and Wales is recoverable as if it were payable under an order of the county court in England and Wales;
- (b) in Scotland may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland;
- (c) in Northern Ireland is recoverable as if it were payable under an order of a county court in Northern Ireland.

5. Where action is taken under this Article for the recovery of any excess emissions premium, the amount payable is—

- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc.)^(a) as if it were a judgment entered in the county court;
- (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments)^(b) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

6. Any excess emissions premium received by the Secretary of State must be paid into the Consolidated Fund”.

(12) In Article 10—

(a) in paragraph 1—

- (i) for “2013 and 31 October of each subsequent year, the Commission” substitute “each year, commencing in 2020, the Secretary of State”,
- (ii) in point (d), omit “in the Union”,
- (iii) in point (e), omit “in the Union”,
- (iv) after point (e) insert—

“(f) whether the manufacturer has complied with the requirements of Article 4 with respect to the preceding calendar year.”,

(b) for paragraph 2 substitute—

“2. Any reference in paragraph 1 to a calendar year includes, in the case of 2019, a part year.”.

(13) In Article 11—

(a) in paragraph 1—

- (i) for “fewer than 22 000 new light commercial vehicles registered in the Union per calendar year” substitute “a number of new light commercial vehicles registered in the United Kingdom per calendar year that is less than the manufacturer’s derogation threshold (calculated in accordance with Annex 3)”.

(a) 2003 c.39; section 98 has been amended by sections 48(1) and 106(2) of, and paragraph 55(1), (2), (3)(a) and (b) of Schedule 8 and paragraph 15 of Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) and section 17(5) of, and paragraph 40(a) and (c) of Part 2 of Schedule 9 to, the Crime and Courts Act 2013 (c.22). Further amendments made by the Tribunals, Courts and Enforcement Act 2007 have yet to be brought into force.

(b) S.I. 1981/226 (N.I. 6).

- (ii) in point (b) for “that is responsible in total for fewer than 22 000 new light commercial vehicles registered in the Union per calendar year” substitute “where the number of new light commercial vehicles registered in the United Kingdom for which that group is responsible per calendar year is less than the manufacturer’s derogation threshold”,
 - (b) in paragraph 2, for “Commission” substitute “Secretary of State”,
 - (c) in paragraph 3, for “Commission” in both places where it appears substitute “Secretary of State”,
 - (d) in paragraphs 4, 5 and 6, for “Commission” in each place where it appears substitute “Secretary of State”,
 - (e) in paragraph 7, for “The Commission shall adopt rules to supplement paragraphs 1 to 6 of this Article” substitute “Regulations may amend paragraphs 1 to 6 of this Article, and Annex 3”,
 - (f) in paragraph 8, for “, subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents” substitute “by the Secretary of State, subject to any relevant provisions of the data protection legislation (within the meaning of section 3(9) of the Data Protection Act 2018)”.
- (14) In Article 12—
- (a) in paragraph 1, after “considered” insert “in accordance with Commission Implementing Regulation (EU) No 427/2014 of 25 April 2014 establishing a procedure for the approval and certification of innovative technologies for reducing CO2 emissions from light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council”,
 - (b) omit paragraph 2,
 - (c) in paragraph 3, for “Commission” substitute “Secretary of State”,
 - (d) omit paragraph 4.
- (15) In Article 13—
- (a) omit paragraphs 1, 2, 3 and 4,
 - (b) in paragraph 5—
 - (i) in the first subparagraph, for “By 31 October 2016, and every three years thereafter, the Commission shall amend Annex I by means of delegated acts in accordance with Article 15, and subject to the conditions laid down in Articles 16 and 17,” substitute “Regulations may amend Annex 1”,
 - (ii) omit the second subparagraph,
 - (c) in paragraph 6—
 - (i) omit the second and third subparagraphs,
 - (ii) in the fourth subparagraph, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 15 and subject to the conditions laid down in Articles 16 and 17 in order to” substitute “Regulations may”.
- (16) For Article 14 substitute—

“Article 14

Regulations

1. Any power to make regulations under this Regulation—
 - (a) is exercisable by the Secretary of State by statutory instrument; and
 - (b) includes power to make:
 - (i) different provision for different cases or descriptions of case, different circumstances or different purposes;

- (ii) consequential, incidental, supplementary, transitional or transitory provision or savings.
- 2. A statutory instrument containing regulations under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (17) Omit Articles 15, 16, 17 and 18.
- (18) After Article 18, omit the sentence beginning “This Regulation shall be binding”.
- (19) In Annex 1—
 - (a) in paragraph 1—
 - (i) omit point (a),
 - (ii) in point (b), for “2018” substitute “2019”,
 - (b) in paragraph 2, after “year” in both places where it appears insert “, or part year in the case of 2019, ”,
 - (c) in paragraph 5, in the definition of “NEDC 2021 target”, for “granted by the Commission” substitute “set by the Secretary of State”.
- (20) In Part A of Annex 2—
 - (a) in point 1.1—
 - (i) in the first unnumbered paragraph—
 - (aa) for “EC” substitute “UK”,
 - (bb) for “Member States” substitute “the Secretary of State”,
 - (cc) after “year” insert “, or part year in the case of 2019”,
 - (dd) for “their territory” substitute “the United Kingdom”,
 - (ii) omit the third and fourth unnumbered paragraphs,
 - (b) in point 1.2—
 - (i) in the first unnumbered paragraph—
 - (aa) for “Member States” substitute “the Secretary of State”,
 - (bb) after “year” insert “, or part year in the case of 2019”,
 - (ii) in the second unnumbered paragraph, for “Member State shall provide” substitute “the Secretary of State shall record”,
 - (c) in point 2, for “Member States” in each place where it appears substitute “the Secretary of State”,
 - (d) in point 3—
 - (i) for “Member States” substitute “The Secretary of State”,
 - (ii) after “year” insert “, or part year in the case of 2019”,
 - (iii) for “EC” substitute “UK”.
- (21) In Part B of Annex 2—
 - (a) in the first unnumbered paragraph, for “Member States” substitute “the Secretary of State”,
 - (b) in point 1—
 - (i) for “Member States” substitute “the Secretary of State”,
 - (ii) for “their territory” substitute “the United Kingdom”,
 - (iii) for “EC” substitute “UK”,
 - (c) in point 7—
 - (i) in the second unnumbered paragraph—
 - (aa) at the beginning insert “Regulations may prescribe a monitoring procedure”
 - (bb) omit “, the Commission shall come forward” to the end,

- (ii) in the third unnumbered paragraph, for “When defining such a procedure, the Commission shall, if appropriate” substitute “The Regulations may”,
- (iii) in the fourth unnumbered paragraph, for “Commission” substitute “Secretary of State”.

(22) In Part C of Annex 2—

- (a) in the opening words for “Member States shall report” substitute “or part year in the case of 2019, the Secretary of State shall collect”,
- (b) in section 1—
 - (i) omit “Member State”,
 - (ii) for “EC” substitute “UK”,
- (c) in section 2 for “Member State registry” substitute “UK registry”.

(23) After Annex 2 insert—

“ANNEX 3

DEROGATION THRESHOLDS

1. For 2019—

- (a) the derogation threshold in relation to a manufacturer that was responsible for new light commercial vehicles registered in both the United Kingdom and in an EEA state in the period beginning with 1 January 2017 and ending with 31 December 2017 (“the relevant period”) is:

$$\left(\frac{UK}{EEA} \times 22,000\right) \times \left(\frac{d}{365}\right),$$

- (b) the derogation threshold in relation to a manufacturer not falling within point (a) is:

$$4,300 \times \left(\frac{d}{365}\right),$$

where:

“d” is the number of days in the period beginning with exit day and ending with 31 December 2019,

“EEA” is the number of new light commercial vehicles registered in an EEA state in the relevant period for which that manufacturer was responsible, and

“UK” is the number of new light commercial vehicles registered in the United Kingdom in the relevant period for which that manufacturer was responsible,

2. For each of the years from 2020 to 2024—

- (a) the derogation threshold in relation to a manufacturer that was responsible for new light commercial vehicles registered in both the United Kingdom and in an EEA state in the period beginning with 1 January 2017 and ending with 31 December 2017 (“the relevant period”) is:

$$\frac{UK}{EEA} \times 22,000$$

where:

“EEA” is the number of new light commercial vehicles registered in an EEA state in the relevant period for which that manufacturer was responsible, and

“UK” is the number of new light commercial vehicles registered in the United Kingdom in the relevant period for which that manufacturer was responsible,

- (b) the derogation threshold in relation to a manufacturer not falling within point (a) is 4,300.

3. For 2025 and subsequent years, the derogation threshold shall be such amount as is specified in Regulations.”.

CHAPTER 2

Amendment of tertiary legislation made pursuant to Regulation (EU) No 510/2011

Amendment of Commission Implementing Regulation (EU) No 293/2012

30.—(1) Commission Implementing Regulation (EU) No 293/2012 of 3 April 2012 on monitoring and reporting of data on the registration of new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council is amended as follows.

- (2) In Article 1, omit point (b).
- (3) In Article 2, at the end insert—
- “(4) ‘Secretary of State’ includes any person authorised by the Secretary of State to carry out functions under this Regulation on behalf of the Secretary of State”.
- (4) Omit Article 3.
- (5) In Article 4—
- (a) in paragraph 1, for “Member States” substitute “The Secretary of State”,
- (b) in paragraph 4, for “Member State shall report the manufacturer of the base vehicle” substitute “the manufacturer of the base vehicle is treated deemed to be the manufacturer”,
- (c) in paragraph 6—
- (i) for “In reporting” substitute “When including”,
- (ii) for “competent authority shall provide” substitute “Secretary of State shall consider”,
- (d) in paragraph 7—
- (i) for “competent authority shall report” substitute “Secretary of State shall use”,
- (ii) omit point (b) and the second subparagraph,
- (e) in paragraph 8, for “Member State shall report” substitute “Secretary of State shall use”,
- (f) in paragraph 9, for “Member States” substitute “Secretary of State”.
- (6) In Article 5—
- (a) for “Member States” substitute “Secretary of State”,
- (b) for “, verification and transmission” substitute “and verification”.
- (7) In Article 6—
- (a) in the heading, for “Member States” substitute “the Secretary of State”,
- (b) in the first subparagraph, for “Member States” substitute “the Secretary of State”,
- (c) for the second subparagraph substitute—
- “Notwithstanding the detailed data parameters referred to in Annex 2 of Regulation (EU) No 510/2011, the Secretary of State shall ensure that all detailed monitoring data specified in Annex 2 is monitored and compiled.”.
- (8) In Article 8—
- (a) in the first paragraph—
- (i) for “Member States shall inform the Commission of” substitute “the Secretary of State shall calculate”,
- (ii) for “their territory” substitute “the United Kingdom”,
- (b) in the second paragraph—
- (i) for “competent authority” substitute “Secretary of State”,

- (ii) for “Member State” substitute “United Kingdom”,
 - (iii) omit “reporting” in both places in which it occurs.
- (9) In Article 9—
- (a) in paragraph 1—
 - (i) for “Commission” in each place where it appears substitute “Secretary of State”,
 - (ii) for “1 June 2012” substitute “15 December 2019”,
 - (b) in paragraph 2—
 - (i) for “competent authority” substitute “Secretary of State”,
 - (ii) omit “taken from the list that is to be drawn up by the Commission on the basis of the names”,
 - (iii) for “That list” substitute “A list of those names”,
 - (iv) for “1 September 2010” substitute “31 December 2019”,
 - (c) in paragraph 3, for “competent authority” substitute “Secretary of State”.
- (10) In Article 10—
- (a) for “Commission” in each place where it appears substitute “Secretary of State”,
 - (b) for “1 June 2012” substitute “31 May each year”.
- (11) In Article 10a—
- (a) in paragraph 1—
 - (i) in the first subparagraph, for “Commission” substitute “Secretary of State”,
 - (ii) in the second subparagraph, for “EC” substitute “UK”,
 - (iii) in the fourth subparagraph, for “Member State” substitute “Secretary of State”,
 - (b) in paragraph 2, for “Commission” substitute “Secretary of State”,
 - (c) in paragraph 3—
 - (i) omit “to the Data Repository referred to in Article 10(3), in other cases it shall be submitted”,
 - (ii) for the words “European Commission” to the end substitute—

“The Environment Strategy Team,
The Department for Transport,
Great Minster House,
33 Horseferry Road,
Westminster,
London SW1P 4DR.

An electronic copy of the notification shall be sent for information to the following email address:
Environmental.Strategy@dft.gov.uk”.
- (12) Omit Article 11.
- (13) After Article 11, omit the sentence beginning “This Regulation shall be binding”.

Amendment of Commission Delegated Regulation (EU) No 114/2013

31.—(1) Commission Delegated Regulation (EU) No 114/2013 of 6 November 2012 supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO₂ emissions targets for new light commercial vehicles is amended as follows.

- (2) In Article 4, in point (b) for “Union” substitute “United Kingdom”.
- (3) In Article 5—
 - (a) in paragraph 1 omit “, unless the average specific CO₂ emissions for that year are listed in Annex III”,
 - (b) in paragraph 5, in point (b) of the unnumbered subparagraph for “Union” substitute “United Kingdom”.
- (4) In Article 6—
 - (a) in the heading, for “Commission” substitute “Secretary of State”,
 - (b) in paragraph 1, for “Commission” substitute “Secretary of State”,
 - (c) in paragraph 2, for “the Secretariat-General of the European Commission, 1049 Brussels, Belgium” substitute “The Environment Strategy Team, The Department for Transport, Great Minster House, 33 Horseferry Road, Westminster, London SW1P 4DR”.
- (5) Omit Article 7.
- (6) Omit Article 8.
- (7) After Article 8, omit the sentence beginning “This Regulation shall be binding”.
- (8) In Annex 1—
 - (a) in the text preceding point 1, for “EC-CO2-LDV-IMPLEMENTATION@ec.europa.eu” substitute “Environmental.Strategy@dft.gov.uk”,
 - (b) in point 2, for “EU” each place where it appears substitute “United Kingdom”,
 - (c) in point 3.3, for “Union” substitute “United Kingdom”,
 - (d) in points 3.3.1, 3.3.2 and 3.3.3, for “EU” in each place where it appears substitute “United Kingdom”,
 - (e) in point 3.5, for “Union” substitute “United Kingdom”,
 - (f) in points 3.5.1, 3.5.2 and 3.5.3, for “EU” in each place where it appears substitute “United Kingdom”,
 - (g) in point 6.1, omit “if not included in Annex III”,
 - (h) in point 7, for “Union” substitute “United Kingdom”,
 - (i) in point 8.3, for “Union” substitute “United Kingdom”,
 - (j) in points 9.2.1, 9.2.2 and 9.2.3, for “Union” in each place where it appears substitute “United Kingdom”.
- (9) Omit Annex 3.

Amendment of Commission Implementing Regulation (EU) No 427/2014

32.—(1) Commission Implementing Regulation (EU) No 427/2014 of 25 April 2014 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council is amended as follows.

- (2) In Article 2—
 - (a) in paragraph 2, in point (b) for “Directive 2007/46/EC” substitute “the Road Vehicles (Approval) Regulations 2009”,
 - (b) in paragraph 3, for “EC” substitute “UK”.
- (3) In Article 3—
 - (a) in paragraph (2), for “Union” substitute “United Kingdom”,
 - (b) in paragraph (4), for “Commission” substitute “Secretary of State”,
 - (c) in paragraph (5)—
 - (i) the words from “a category” to “Article 41(6) of that Directive” become point (a),

- (ii) at the end of point (a) insert—
 - “(b) the Secretary of State; or
 - (c) any person designated for this purpose by the Secretary of State”.
- (4) In Article 4—
 - (a) for “Commission” in each place where it appears substitute “Secretary of State”.
 - (b) in paragraph 2(f)(ii) omit “as referred to in Article 12(2)(c) of Regulation (EU) No 510/2011 and”.
- (5) In Article 6, in paragraph 2 for “Commission” substitute “Secretary of State”.
- (6) In Article 9, in paragraph 3, in the second subparagraph for “Union” substitute “United Kingdom”.
- (7) In Article 10—
 - (a) for “Commission” in each place where it appears substitute “Secretary of State”,
 - (b) in paragraph 2, in the second subparagraph omit “, subject to the application of the exceptions to the right to public access to documents specified in Regulation (EC) No 1049/2001”.
- (8) In Article 11—
 - (a) in paragraph 1—
 - (i) for “an approval authority within the meaning of Directive 2007/46/EC for an EC” substitute “the Secretary of State for a UK”,
 - (ii) for “Article 6 of Directive 2007/46/EC” substitute “the Road Vehicles (Approval) Regulations 2009”,
 - (iii) for “Commission” substitute “Secretary of State”,
 - (b) in paragraph 2, for “Directive 2007/46/EC” substitute “the Road Vehicles (Approval) Regulations 2009”.
- (9) In Article 12, for “Commission” in each place where it appears substitute “Secretary of State”.
- (10) In Article 12a—
 - (a) for “Commission” in each place where it appears substitute “Secretary of State”,
 - (b) in paragraph 4 omit “, subject to the application of the exceptions to the right to public access to documents specified in Regulation (EC) No 1049/2001”.
- (11) Omit Article 13.
- (12) Omit Article 14.
- (13) After Article 14, omit the sentence beginning “This Regulation shall be binding”.

Amendment of Commission Implementing Decision (EU) 2018/1876

33.—(1) Commission Implementing Decision (EU) 2018/1876 of 29 November 2018 on the approval of the technology used in 12 Volt efficient alternators for use in conventional combustion engine powered light commercial vehicles as an innovative technology for reducing CO₂ emissions from light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council is amended as follows.

- (2) Omit Article 5.

CHAPTER 3

Revocation of tertiary legislation made pursuant to Regulation (EU) No 510/2011

Revocation of Commission Implementing Decision 2012/99/EU

34. Commission Implementing Decision 2012/99/EU of 17 February 2012 on the detailed arrangements for the collection of premiums for excess CO₂ emissions from new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council is revoked.

Signed by authority of the Secretary of State for Transport

11th March 2019

Jesse Norman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(b), (c), and (g)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation relating to CO₂ emission performance targets for passenger cars and light commercial vehicles (vans). They amend Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009, and Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011, setting emission performance standards for new passenger cars and light commercial vehicles respectively.

They amend regulations made pursuant to Regulation (EC) No 443/2009:

- (i) Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars,
- (ii) Commission Regulation (EU) No 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets for new passenger cars, and
- (iii) Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from passenger cars.

They also amend regulations made pursuant to Regulation (EU) No 510/2011:

- (i) Commission Implementing Regulation (EU) No 293/2012 of 3 April 2012 on monitoring and reporting of data on the registration of new light commercial vehicles,
- (ii) Commission Delegated Regulation (EU) No 114/2013 of 6 November 2012 supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO₂ emissions targets for new light commercial vehicles, and
- (iii) Commission Implementing Regulation (EU) No 427/2014 of 25 April 2014 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from light commercial vehicles.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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