

SL(6)396 – [The Vehicle Emissions Trading Schemes Order 2023](#)

Background and Purpose

The Vehicle Emissions Trading Schemes Order (“the Order”) establishes Great Britain wide trading schemes.

The Order consists of four trading schemes which will operate by limiting both the numbers of new non-zero emission vehicles (“non-ZEVs”) which may be registered in Great Britain, and the CO₂ emissions from such vehicles, as part of the transition to zero emission vehicles (“ZEVs”). This policy framework will replace the UK’s existing New Car and Van CO₂ Emissions Regulation, which will cease in Great Britain with the commencement of this Order but will be preserved in Northern Ireland for the time being.

The Explanatory Note accompanying the Order provides that the trading schemes will limit, or encourage the limitation of, CO₂ emissions resulting from the registration of new cars and vans, and this purpose is also reflected in article 4(2) of the Order. The Explanatory Memorandum provides that the Order will contribute to Wales’s and the United Kingdom’s emissions reduction targets and Net Zero goal.

Procedure

Draft Affirmative.

A draft of the Order has been laid before Senedd Cymru, the United Kingdom Parliament, and the Scottish Parliament. The draft must be approved by each of those legislatures before it can be made by His Majesty.

Technical Scrutiny

The following 5 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

The Order has been laid before Senedd Cymru, the United Kingdom Parliament, and the Scottish Parliament. The Order has been made in English only. The Welsh Government’s Explanatory Memorandum states as follows (at paragraph 2.2):

“As the Order will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.”

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation



The term “banked” is defined for the purposes of Chapters 1 and 3 of Part 3 of the Order. However, it is also used in article 77(l) and (m) in the context of “banked CRTS allowances” and “banked VRTS allowances” respectively. As article 77 is found within Part 4 of the Order, the definition of “banked” does not extend to those provisions and the term remains undefined for that purpose. In the same way that “CRTS allowance” and “VRTS allowance” are defined for the purposes of the Order as a whole in article 3(1), it may have been helpful if the definition of “banked” had been extended to Part 4 or to the Order as a whole.

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

The phrase “relevant national authorities” appears in article 96(3) of, and paragraphs 3 and 5 of Schedule 3 to, the Order. In two of these instances, the phrase is defined within a footnote as meaning as defined in section 47 of the Climate Change Act 2008. There does not seem an obvious reason for including the definition in footnotes, which are non-operative parts of the text, rather than in the body of the Order itself, for example in article 3(1) (interpretation).

4. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Article 110(16)(f) omits the phrase “in domestic law or, as the case may be, as that Regulation has effect”, in both places it occurs, from point 1.2.4 in Part A of Annex 3 to Regulation (EU) 2019/631. However, that phrase does not appear in point 1.2.4. It is noted that the phrase “in domestic law and as that Regulation has effect” appears in point 1.2.4 on 3 occasions and this may have been the phrase intended to be omitted.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Article 110(16)(h) substitutes the phrase “light commercial vehicle” with “NI light commercial vehicle” in point 2 in Part A of Annex 3 to Regulation (EU) 2019/631. However, the phrase “light commercial vehicle” appears on two occasions in point 2 and it is not clear whether article 110(6)(h) is intended to substitute one (and, if so, which) or both occurrences.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required except in relation to point 1.

Legal Advisers

Legislation, Justice and Constitution Committee

30 October 2023

