

EXPLANATORY MEMORANDUM TO THE VEHICLE EMISSIONS TRADING SCHEMES (AMENDMENT) ORDER 2024

This Explanatory Memorandum has been prepared by the Transport and Digital Connectivity Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Vehicle Emissions Trading Schemes (Amendment) Order 2024. I am satisfied that the benefits justify the likely costs.

Ken Skates MS
Cabinet Secretary for Transport and North Wales
17 September 2024

PART 1

1. Description

- 1.1 The Vehicle Emissions Trading Schemes (Amendment) Order 2024 (“this instrument”) primarily amends the Vehicle Emissions Trading Schemes Order 2023 (“VETS”) to include Northern Ireland in the Zero Emission Vehicle (“ZEV”) Mandate. VETS consists of four trading schemes made with powers in the Climate Change Act 2008 (“CCA”) two of which implement in Great Britain (“GB”) the ZEV Mandate that sets targets for limiting the registration of new non-zero emission cars and vans. The other two schemes implement a carbon dioxide baseline target in GB that limits CO₂ emissions from new non-zero emission cars or vans. The four schemes form part of the transition to zero emission vehicles that is underpinned by the Welsh Government’s commitment to net zero by 2050.
- 1.2 The purpose of this instrument is to expand the territorial scope of VETS to include Northern Ireland, replacing the existing assimilated New Car and Van CO₂ Emissions Regulation that are in force there. The instrument further makes, technical amendments to VETS to update the framework and correct oversights. Officials from DfT have consulted the SI Registrar and this instrument is being issued free of charge to the recipients of VETS on the basis that the instrument corrects oversights in the legislation.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 Part 3 of Schedule 3 to the Climate Change Act 2008 (CCA) states that an emissions trading scheme that applies to England, Scotland, Wales and Northern Ireland must be established by Order in Council. The appropriate procedure for an Order in Council is prescribed by section 48 to the CCA. As the Order extends the territorial scope of VETS to include Northern Ireland, effectively setting up a trading scheme in Northern Ireland, the affirmative procedure will be used.
- 2.2 As this instrument will be subject to UK, Scottish and Northern Irish Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

3. Legislative background

- 3.1 The power to make an instrument to put in place a trading scheme relating to greenhouse gas emissions in section 44 of the Climate Change Act 2008 (“CCA”) is exercisable by “the relevant national authority” (the Secretary of State, the Scottish Ministers, the Welsh Ministers, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland),¹ in relation

¹ The definition of relevant national authority is set out at section 47 of the CCA 2008.

- The Scottish Ministers are the relevant national authority in relation to matters within the legislative competence of the Scottish Parliament.

to matters within their legislative competence. This instrument relates to climate policy and is therefore devolved.

3.2 The Westminster and Devolved Parliamentary procedures for making a UK wide trading scheme are set out in Schedule 3 to the CCA. Paragraph 9 of that Schedule enables such a scheme to be established by Order in Council. Pursuant to paragraph 11 of Schedule 3, before a recommendation may be made to His Majesty in Council to make the Order in Council, a draft of the instrument containing the Order in Council must be laid before, and approved by, a resolution of each House of Parliament and the relevant devolved legislatures. If it is approved by each of these, the Order will go to the Privy Council.

4. Purpose and intended effect of the legislation

4.1 In March 2021 the Senedd established Wales's statutory target of net zero greenhouse gas emissions in 2050.² Net Zero Wales: Carbon Budget 2, published in October 2021 illustrates the importance of reducing emissions from transport in Wales as part of this ambition and the Welsh Government's support for stretching targets for the uptake of electric vehicles.³

4.2 To support the achievement of these goals, the previous UK Government, the Department for Infrastructure (Northern Ireland), the Welsh Government, and Transport Scotland (the Scottish Government) consulted on a final design for a Zero Emission Vehicle mandate and CO2 emissions framework in 2023. This framework was subsequently created as the Vehicle Emissions Trading Schemes Order 2023 and approved in the House of Commons, House of Lords, Scottish Parliament, and Senedd Cymru before being made on 13 December 2023 by HM The King in Council.

4.3 At the time VETS was laid on 16 October 2023, the Northern Ireland Assembly was unable to meet to approve this as it was not sitting. As such, the territorial extent of VETS could not include Northern Ireland. Consequential amendments to the existing assimilated New Car and Van

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- The Welsh Ministers are the relevant national authority in relation to matters that— (a) are within the legislative competence of the National Assembly for Wales, or (b) relate to limiting or encouraging the limitation of activities in Wales that consist of the emission of greenhouse gas, other than activities in connection with offshore oil and gas exploration and exploitation.
 - The Secretary of State or the relevant Northern Ireland department is the relevant authority in relation to reserved matters within the meaning of the Northern Ireland Act 1998.
 - The relevant Northern Ireland department is the relevant authority in relation to all other matters within the legislative competence of the Northern Ireland Assembly.
 - The Secretary of State is the relevant national authority in relation to all other matters.

² [The Environment \(Wales\) Act 2016 \(Amendment of 2050 Emissions Target\) Regulations 2021](#)

³ Net Zero Wales: Carbon Budget 2

CO2 Emissions Regulations⁴ were made under section 54 of the CCA to preserve that regime for Northern Ireland to ensure emissions from new cars and vans continued to be regulated.

- 4.4 On 3 February 2024, the Northern Ireland Assembly returned, and an Executive was formed. On 10 May 2024, John O'Dowd MLA, the Minister for Infrastructure in the Executive, wrote to his Ministerial counterparts in the previous UK Government, the Scottish Government, and the Welsh Government to inform them of his intent for Northern Ireland to join VETS. UK, Scottish, and Welsh Ministers unanimously support this change.
- 4.5 The principal purpose of this instrument is therefore to expand the scope of VETS to include Northern Ireland. This legislation further updates and corrects aspects of VETS.
- 4.6 Part 1 establishes the coming into force dates of the provisions and the citation and extent of the instrument.
- 4.7 Part 2 includes twelve articles making technical updates and corrections.

These are:

- Article 3: Corrects an inadvertent technicality that prevents hydrogen fuel cell powered vehicles from being classed as zero emission, adds a UN Regulation definition and adds a reference to heavy duty type-approval to the definition of manufacturer.
- Articles 4 and 6: Removes inadvertent restrictions for acquiring zero emission wheelchair accessible vehicle credits and zero emission special purpose vehicle credits.
- Articles 5 and 7: Fixes an error in the calculation of a manufacturer's cap on converting allowances, a flexibility included in VETS that allows participants that beat their CO₂ target to transfer that overcompliance to use against their ZEV target.
- Article 8: Fixes an error requiring vehicle information from an incorrect source.
- Article 9: Clarifies the definition of the term "banked", a reference to the flexibility included in VETS that allows participants to store overcompliance against ZEV targets for use in future years.
- Article 10: Fixes a grammatical error for clarity of meaning.
- Article 11: Adds a civil penalty for providing false or misleading information under article 87 of VETS (power to question officers of a company).
- Articles 12 and 14: Updates a value used in multi-stage vehicle calculations.

⁴ List of new car and van CO2 emission regulations: Regulation (EU) 2019/631, Regulation (EU) 1014/2010, Regulation (EU) 293/2012, Regulation (EU) 63/2011, Regulation (EU) 114/2013, Regulation (EU) 725/2011, Regulation (EU) 427/2014, Regulation (EU) 2017/1152 and Regulation (EU) 2017/1153 all as amended in different capacities by S.I. 2019/550, S.I. 2020/1418, S.I. 2021/898, S.I. 2021/1242 and S.I. 2022/1361.

- Article 13: Fixes an oversight on the manner in which an application form is to be provided and one point of information required within that application.
- 4.8 Part 3 of this instrument expands the territorial scope of VETS from England, Wales, and Scotland to include Northern Ireland, following the decision of the Minister for Infrastructure in the Northern Ireland Executive.
- 4.9 Part 4 makes consequential amendments, principally revocations, to the remaining assimilated direct emissions regulations.
- 4.10 The effect of these provisions is that VETS will extend to Northern Ireland from 1 January 2025 with the revocations and amendments to existing New Car and Van CO₂ Emissions Regulation applying in Northern Ireland also coming into force on this date subject to the saving of certain administrative functions. The technical amendments in part 2 will come into force 21 days after the instrument is made.

5. Consultation

- 5.1 Between 30 March 2023 and 24 May 2023, the previous UK Government, Scottish Government, Welsh Government, and Northern Ireland's Department for Infrastructure ran a public consultation ("the final consultation") seeking views on "A zero emission vehicle (ZEV) mandate and CO₂ emissions regulation for new cars and vans in the UK". This consultation stated that emissions trading schemes are the UK Government and Devolved Governments' preferred policy approach to transitioning to zero emission vehicles.
- 5.2 This consultation informed the development and eventual coming into force of VETS. Owing to the absence of a sitting Northern Ireland Assembly in the autumn of 2023, even though the consultation proposed a UK-wide implementation of the ZEV Mandate it was not possible for it to apply in Northern Ireland. This was communicated in the consultation response (published 28 September 2023) alongside a commitment from the Department for Infrastructure (Northern Ireland), the previous UK Government, the Welsh Government, and the Scottish Government that it remained their collective intent that Northern Ireland join the ZEV Mandate should a sitting assembly choose to do so. This amending legislation implements that commitment as well as making technical updates and corrections to bring the legislative framework into closer alignment with this consultation and response.
- 5.3 Alongside the consultation, the UK Government and Devolved Governments jointly commissioned the Committee on Climate Change ("CCC") for advice on the design of a ZEV mandate and CO₂ standard in accordance with section 48 of the CCA. This advice was published by the CCC and is available at: [Letter: Zero-emission vehicle mandate - Climate Change Committee \(theccc.org.uk\)](https://www.theccc.org.uk/letter-zero-emission-vehicle-mandate-climate-change-committee/). Advice has also been obtained from the CCC on this instrument. In response, the Climate Change Committee reiterated its support for the ZEV Mandate, for the inclusion of Northern

Ireland in the schemes, and for the more minor amendments to the schemes.

- 5.4 The consultation received over 148 responses, from a range of stakeholders including vehicle manufacturers, chargepoint operators, and NGOs, with the majority supporting most of the proposals on the design of a ZEV mandate and CO₂ emissions standard.
- 5.5 On whether VETS should apply UK-wide (Q1 & Q2), approximately 96% of respondents who answered the relevant question wanted VETS to apply UK wide. While it was not practically possible for VETS to apply in Northern Ireland due to the absence of a sitting Northern Ireland Assembly in 2023, following the return of the Northern Irish Ministers in February and the Minister for Infrastructure's decision that Northern Ireland should be included in the schemes subject to the approval of the NI Assembly, this instrument amends the original VETS Order to deliver on the consultation outcome.
- 5.6 The Government Response to the consultation was published on 28 September 2023. Full details of the consultation can be found at: [A zero emission vehicle \(ZEV\) mandate and CO₂ emissions regulation for new cars and vans in the UK - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/a-zero-emission-vehicle-zev-mandate-and-co2-emissions-regulation-for-new-cars-and-vans-in-the-uk) The consultation built on the two preceding consultations: [Policy design features for the car and van zero emission vehicle \(ZEV\) mandate - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/policy-design-features-for-the-car-and-van-zero-emission-vehicle-zev-mandate)⁵ (consultation open 7 April – 10 June 2022) and [CO₂ emissions regulatory framework for all newly sold road vehicles in the UK - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/co2-emissions-regulatory-framework-for-all-newly-sold-road-vehicles-in-the-uk)⁶ (consultation open 14 July – 22 September 2021).

⁵ <https://www.gov.uk/government/consultations/policy-design-features-for-the-car-and-van-zero-emission-vehicle-zev-mandate>

⁶ <https://www.gov.uk/government/consultations/co2-emissions-regulatory-framework-for-all-newly-sold-road-vehicles-in-the-uk>

PART 2 – REGULATORY IMPACT ASSESSMENT

As this instrument does not significantly alter the policy in Wales or its impact in Wales, a Regulatory Impact Assessment (RIA) has not been prepared. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation. The RIA for the 2023 Order assessed the likely impacts of the proposed legislation in Wales and was based on a Cost Benefit Analysis⁷ of the schemes' impact across the UK as a whole and is therefore still appropriate.

Summary of policy impacts in the 2023 Regulatory Impact Analysis

The estimated carbon savings to Wales from this policy are included in Table 24A below.

	Policy carbon savings MtCO ₂ e (non-traded)
Wales CB2 (2021 – 2025)	0
Wales CB3 (2026 – 2030)	0.56
Wales CB4 (2031 – 2035)	3.3
2024 – 2050	22.89

Table 1A Total non-traded carbon savings from cars and vans in Wales

Furthermore, the cost-benefit analysis appraisal highlighted that these carbon savings are both cost-effective and in addition to net social benefits achieved when accounting for all impacts.

A detailed apportionment of the cost and benefits to Wales was not undertaken due to the complexity of the task. Present value benefits to Wales were estimated at £7.958 billion, present value costs to Wales were estimated at -£2.410 billion (-£6.083 billion including rebound effect), and Net Present Value to Wales at £5.548 billion (£1.875 billion including rebound effect).

⁷ <https://www.gov.uk/government/consultations/a-zero-emission-vehicle-zev-mandate-and-co2-emissions-regulation-for-new-cars-and-vans-in-the-uk>