

**EXPLANATORY MEMORANDUM TO
THE END OF LIFE VEHICLES (AMENDMENT) REGULATIONS 2010**

2010 No. 1094

AND

**THE END OF LIFE VEHICLES (PRODUCER RESPONSIBILITY)(AMENDMENT)
REGULATIONS 2010**

2010 No. 1095

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instruments**

2.1 These two sets of Regulations amend two earlier sets of Regulations that implemented the EC Directive on End of Life Vehicles 2000/53 EC (“the Directive”):

- The End of Life Vehicles Regulations 2003 (SI 2003 No. 2635) (“the 2003 Regulations”)
- The End of Life Vehicles (Producer Responsibility) Regulations 2005 (SI 2005 No.263) (“the 2005 Regulations”)

2.2 The 2003 Regulations contain restrictions on the use of certain heavy metals in materials and components of vehicles subject to exemptions set out in Schedule 1. The amendments change the transposition from copying out the list specifying the exemptions to an ambulatory reference to the list contained in Annex II of the Directive as amended from time to time. They also transpose certain amendments to the Directive which come into force on 1 December 2010 and provide powers of entry and inspection for enforcement authorities.

2.3 The amendments to the 2005 Regulations make changes to the requirements for reporting details of reuse, recycling and recovery rates. The opportunity has also been taken to correct errors raised by the JCSI in their Twelfth Report of Session 2004-5.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 Regulation 2(3) of the End of Life Vehicles (Amendment) Regulations takes advantage of provisions inserted into the European Communities Act 1972 by the Legislative and Regulatory Reform Act 2006 so as to refer to Annex II of the Directive as amended “from time to time”.

3.2 The End of Life Vehicles (Producer Responsibility)(Amendment) Regulations correct all the errors in the 2005 Regulations which were reported by the JCSI in their Twelfth Report of Session 2004-5.

4. Legislative Context

4.1 The Directive aims at minimising the negative environmental impacts of vehicles (cars, and goods vehicles up to 3.5 tonnes) when they are scrapped. The Directive establishes: (i) technical requirements affecting the design and composition of new vehicles and (ii) requirements for the collection, treatment, recycling and disposal of end-of-life vehicles (ELVs) in order to reduce the amount and hazardousness of the waste that arises from them.

4.2 The 2003 Regulations brought into effect:

- i) design requirements restricting the use of certain “heavy metals” in new vehicles;
- ii) information requirements requiring that, in order to aid recycling, vehicle producers make available dismantling manuals and mark certain plastic and rubber parts in their vehicles;
- iii) the introduction of a Certificate of Destruction (CoD) system for the UK;
- iv) new environmental standards for the authorised treatment facilities where vehicles are scrapped.

4.3 The 2005 Regulations brought into effect:

- i) producer responsibility requirements whereby vehicle producers must make available a network of facilities where ELVs will be accepted free of charge to the last owner;
- ii) re-use/recycling/recovery targets that apply to each vehicle producer and to treatment facilities operating outside the producers’ networks.

4.4 In respect of the 2003 Regulations, amendments are needed in order to a) include a reference to Annex II of the Directive as amended from time to time, b) make clearer to whom that annex applies c) transpose an amendment to the definition of “hazardous substance” in the Directive which comes into force on 1 December 2010 d) give the enforcement authority powers of entry and inspection, and e) amend certain disclosure requirements relating to some of the information obtained under the Regulations.

4.5 In respect of the 2005 Regulations, amendments are needed in order to a) make uniform the way ATFs and vehicle producers report their annual recycling/recovery achievement by requiring that it be submitted in a format published by the Secretary of State b) extend the deadline by which they have to do this by 3 months, and c) address all the points raised by the JCSI in their Twelfth Report for session 2004-5.

4.6 BIS (formerly the Department of Trade and Industry and the Department for Business, Enterprise and Regulatory Reform) has previously submitted Explanatory Memoranda on the Directive (see Annex).

5. Territorial Extent and Application

5.1 These instruments apply to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As both instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The Directive aims to reduce the environmental impact of vehicles when they are scrapped by stipulating certain vehicle design features. Use of lead, mercury, hexavalent chromium and cadmium is restricted in new vehicles placed on the market after 1 July 2003 and replacement parts for those vehicles. However, there is recognition that for some components/materials there is no suitable alternative material available, and so the Directive contains an Annex (Annex II) listing specific materials and components where the four restricted substances may still be used (in some cases adding specific numerical limits and/or end dates when the exemption will expire). This annex is reviewed periodically under the comitology procedure to take into account scientific and technical progress. The most recent review led to the Commission Decision 2008/689/EC. The amendments to the 2003 Regulations ensure that any amendment to Annex II of the Directive takes effect without the need for further amendments to those regulations. In addition to their publication in the Official Journal of the European Union details of any amendments to Annex II of the Directive will be communicated directly to stakeholder contacts and published on the BIS website.

7.2 In order to transpose the Directive, improved environmental standards for vehicle dismantlers have been introduced in the UK. These include new site standards, requirements to de-pollute vehicles at the start of the treatment process and recovery/recycling targets of 85% (by 2006) and 95% (by 2015). Each UK vehicle producer is required to put in place an accessible network of facilities where last owners of its vehicles are able to have their ELV treated free of any charge; at these facilities the obligation is with the vehicle producer to ensure that the recovery/recycling target is met. The overall approach adopted in the UK also allows ATFs to operate independently from the vehicle manufacturers networks; those doing so take on the obligation of meeting the recovery/recycling targets themselves.

7.3 The Directive also requires that member States have in place a Certificate of Destruction (CoD) system as part of the vehicle registration/de-registration process, with only permitted ATFs able to issue CoDs.

7.4 The proposed changes (which are not considered politically or legally important) are unlikely to lead to significant interest.

7.5 This is the first occasion that either set of ELV Regulations has been amended. There are currently no plans to consolidate the legislation.

8. Consultation outcome

8.1 Three written consultations were undertaken before implementation of the Directive into UK law. Subsequently DTI, BERR and now BIS have been running an ELV Consultation Group with regular meetings (3 times a year) of stakeholders from trade associations, the Environment Agencies and Devolved Administrations.

8.2 The European Commission carried out a written public consultation on the proposed amendments to Annex II of the Directive. BIS contributed to member States' discussions on the proposals, during Technical Adaptation Committee meetings.

8.3 No written consultation has been carried out in the UK on these particular amendments to either the 2003 or 2005 Regulations. On this occasion the Government needs to make information available to stakeholders, rather than seek views or evidence to influence policy. Forewarning of the process of introducing these changes to stakeholders has already started within the ELV Consultation Group and will continue.

9. Guidance

9.1 BIS already has guidance on the 2003 and 2005 Regulations and this will be updated to reflect changes to both sets of Regulations. Copies can be obtained at:

<http://www.berr.gov.uk/whatwedo/sectors/sustainability/elv/page30591.html>

10. Impact

10.1 The impact on business, charities or voluntary bodies is estimated to be of minimal cost. This is because the two sets of Regulations are principally concerned with making technical changes that are already common across Europe and simplifying certain reporting requirements.

10.2 The impact on the public sector is estimated to be a small annual saving of £7,000 because the Regulations now give effect to future changes to a technical annex of the Directive meaning that no time will need to be spent amending UK legislation when these changes are made.

10.3 Impact Assessments for both sets of regulation are attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to allow all obligated parties an additional 3 months to report on their previous year's re-use recycling and recovery performance and to alter the requirement relating to who is able to sign this report.

11.3 The basis for the final decision on what action to take to assist small business is to minimise the burden of the reporting obligations as far as possible whilst still allowing the UK to report to the Commission on its performance. BIS has an enforcement role in respect of the 2005 Regulations and is in regular contact with treatment facilities (the majority of which employ less than 20 people) enabling the Department to gain a full understanding of the effects of this legislation on such businesses.

11.4 The terms of the Directive mean that the vehicle design standards apply to all vehicle producers. However, the UK approach is to take into account the potential burden on producers during negotiations and then apply a flexible and helpful enforcement approach, assisting all producers with advice on how best to meet the requirements.

12. Monitoring & review

12.1 The Vehicle Certification Agency (VCA) enforces the technical requirements that restrict the use of heavy metals in new vehicles. BIS officials participate in EU Technical Adaptation Committee meetings where the periodic reviews of these requirements are discussed between member States. The Environment Agency for England and Wales, Northern Ireland Environment Agency and Scottish Environment Protection Agency monitor and enforce the environmental standards at treatment facilities. Vehicle manufacturers' producer responsibility requirements are enforced by BIS who monitor the effectiveness of the producers' networks and the performance of all treatment facilities with regard recycling/recovery targets.

13. Contact

Peter Cottrell at the Department for Business, Innovation and Skills - Tel: 020 7215 1330 or email: peter.cottrell@bis.gsi.gov.uk can answer any queries regarding the instrument.

Scrutiny History

1. The Department for Business, Enterprise and Regulatory Reform has previously submitted Explanatory Memoranda on the ELV Directive.
2. EM 11034/97 on a Proposal for a Council Directive on End of Life Vehicles was submitted on 28 October 1997; the House of Commons European Scrutiny Committee considered it to be politically important (Report 9, item 18434, Session 98/99), and the House of Lords Select Committee on the European Communities referred it to Sub Committee C (Progress of Scrutiny 18 December 1998, Session 98/99). A Supplementary EM 11034/97 was submitted on 11 December 1998; the House of Commons European Scrutiny Committee considered it politically important for debate (Report 11, item 18434, session 98/99). The House of Lords Select Committee on the European Communities referred it to Sub Committee C, (Progress of Scrutiny 19 February 1999) and cleared it after further correspondence with the Minister (Progress of Scrutiny, 5/3/99, Session 98/99). The proposal was debated by the European Standing Committee C on 9 March 1999, when the Committee agreed the Government motion.
3. A further EM (8000/99) on an amended Proposal for a Council Directive on ELVs was submitted by the DTI on 24th May 1999 and a supplementary EM on 21 June 1999. The Commons European Scrutiny Committee considered them politically important and cleared them (Report 11, Item 20117, Session 99/00). The Lords Select Committee on the European Union cleared them by letter to the Minister (Progress of Scrutiny, 25th June 1999, Session 98/99).
4. The DTI wrote to both Committees on 29th February 2000 to inform them of the 33 amendments to the Common Position text that had been passed by the European Parliament's Plenary Session on 3 February 2000. The letter explained that there was strong opposition to many of the amendments from a number of member States and that conciliation was likely to begin in March 2000. The Commons European Scrutiny Committee considered it politically important but cleared (Report 11, Session 99/00).
5. The Department then submitted an EM (7214/00) on 17 April 2000 relating to an Opinion of the Commission on the European Parliament's amendments to the Council's Common Position regarding a proposal for a Directive of the European Parliament and the Council on End of Life Vehicles. The Commons European Scrutiny Committee considered it not legally or politically important, and cleared (Report 18, Session 03/04). The Lords Select Committee on the EU did not report on it (Progress of Scrutiny, 21 April 2000, Session 99/00).
6. EM 7532/04 was submitted by the Department of Trade and Industry on 29th April 2004 on a Proposal for a Directive of the European Parliament and of the Council on the type approval of motor vehicles with regard to their re-usability, recyclability and recoverability, and amending Council Directive 70/156/EEC. The House of Commons European Scrutiny Committee considered it politically important and cleared it by letter to the Minister on 23rd May 2005 (Report1, Item 25471, Session

05/06). The Lords Select Committee on the European Union cleared it by letter to the Minister dated 13 June 2005 (Progress of Scrutiny, 27th June 2005, Session 05/06). EM 10894/05 was submitted by the Department of Trade and Industry on 3rd October 2005 on a Council Decision to amend Annex II to the ELV Directive to take into account scientific and technical progress since the Directive was agreed.

7. EM 5249/07 was submitted by the Department for Trade and Industry on 2 February 2007 on a Proposal for a Directive of the European Parliament and of the Council amending Directive 2000/53/EC on end of life Vehicles, as regards the implementing powers conferred to the Commission. The House of Commons European Scrutiny Committee considered it politically and legally important and cleared it (Report 15, Session 06/07). The Lords Select Committee on the European Union did not report on it (Progress of Scrutiny, 16 March 2007, Session 06/07).

8. EM 5413/07 + ADD 1.2 was submitted by the Department of Trade and Industry on 13 February 2007 on a Commission report to the Council and the European Parliament concerning the Directive's 2015 recovery target. The House of Commons European Scrutiny Committee considered it not legally or politically important and cleared it (Report 11, Session 06-07). The Lords Select Committee on the European Union referred it to Sub-Committee B (Progress of Scrutiny, 30 October 2007, Session 06-07) and cleared it at their meeting of 2nd March 2009.

9. EM 14087/07 was submitted by the Department for Business Enterprise and Regulatory Reform on 9th November 2007 on a report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the implementation of Directive 2000/53/EC on End of Life Vehicles for the period 2002-2005. The Commons European Scrutiny Committee cleared it (Report 2 Session 07/08) The Lords Select Committee on the EU cleared it (P.O.S. 23 November 2007 Session 07/08).

10. EM 16459/09 was submitted by the Department for Business Enterprise and Regulatory Reform on 7th December 2009 on a report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the implementation of Directive 2000/53/EC on End of Life Vehicles for the period 2005-2008. The House of Commons European Scrutiny Committee considered it not legally or politically important and cleared it (Report 4, Session 09/10). The Lords Select Committee on the European Union cleared it (P.O.S. 15 December 2009 Session 09/10).

Summary: Intervention & Options

Department /Agency:	Title: Impact Assessment of ELV Amending Regulations 2010 amending ELV Regulations 2003	
Stage: Final	Version: 1	Date:
Related Publications: End of Live Vehicles 2005 Regulatory Impact Assessment		

Available to view or download at:

<http://www.>

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What is the problem under consideration? Why is government intervention necessary?

The UK End-of Life Vehicle (ELV) Regulations 2003 transpose certain elements of the European ELV Directive in the UK. The ELV Directive aims to reduce the environmental impact of certain types of vehicles placed on the European market by requiring the de-pollution of ELVs and increased recycling and recovery of de-polluted ELVs. It also places a number of restrictions on the use of certain heavy metals in new vehicles and components to reduce the risk of harm from the use of such heavy metals. The rationale for the ELV Directive is to correct negative externalities resulting from new vehicles and ELVs.

What are the policy objectives and the intended effects?

The policy objectives are to up-date and maintain the UK ELV Regulations in line with the technical annex (Annex II) requirements of the ELV Directive which relate to the use of certain heavy metals in the production of new vehicles and replacement components for vehicles. There are also objectives to clarify the intended scope of the technical requirements and reduce the administrative burden for stakeholders and officials by introducing an ambulatory reference, and further, to update definitions of hazardous substance and EEA state. The package of amendments is the Government's preferred option, which is being taken forward following EU-level agreement on the technical requirements that form the main part of it. This is compared against a 'do nothing' option which serves as a theoretical baseline against which to measure the impact of the amendments to the Regulations.

What policy options have been considered? Please justify any preferred option.

The Regulations need to be up-dated to reflect the latest version of the technical annex (Annex II) of the ELV Directive. This provides an opportunity to also introduce some minor administrative changes and make the Regulations clear in the way in which certain technical requirements should have effect.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? UK policy in relation to ELVs is continually monitored and reviewed by BIS with particular help from its ELV Consultation Group, other Government Departments, the Driver and Vehicle Licensing Agency, the Vehicle Certification Agency, and the Environment Agencies.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Ian Lucas

.....Date: 29 March 2010

Summary: Analysis & Evidence

Policy Option: Amend ELV Regulations	Description: Up-date 2003 Regulations to reflect ELV Directive, and make some minor administrative and other changes.
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs	
	£ 0	
	Average Annual Cost (excluding one-off)	
£0	Total Cost (PV)	£ 0
Other key non-monetised costs by 'main affected groups' No measurable additional costs are expected to vehicle/vehicle component manufacturers over and above those estimated in the RIA for the 2003 Regulations given the coverage of that IA, current compliance and the small proposed changes. Some minor additional costs might be incurred in making changes but these are considered to be minimal by industry		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Given the small changes, no additional benefits are expected to the environment and the Internal Market in vehicles over and above those estimated in the RIA for the 2003 Regulations. Benefits are from reduced public sector costs as a result of no longer needing to transpose technical changes into UK law
	One-off Yrs	
	£ 0	
	Average Annual Benefit (excluding one-off)	
£ 7,000	Total Benefit (PV)	£ 58,000
Other key non-monetised benefits by 'main affected groups' The inclusion of an "ambulatory" reference in respect of a technical annex means stakeholders will be more clear about their obligations and will face a common starting date across the EU for those obligations.		

Key Assumptions/Sensitivities/Risks The estimates of the costs and benefits of the 2003 Regulations are taken as remaining appropriate. We have no information from stakeholders that these estimates, which this Assessment uses as a basis, are no longer appropriate. It is compared with a "do nothing" option, which serves as a baseline against which to measure the impact of the preferred option.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ 58,000	NET BENEFIT (NPV Best estimate) £ 58,000
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What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	2010			
Which organisation(s) will enforce the policy?	VCA			
What is the total annual cost of enforcement for these organisations?	£ 0 - None additional			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ 0	Decrease of	£ 0
		Net Impact	£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Strategic Overview, Issue and Objectives

1. The UK's End-of Life Vehicles (ELV) Regulations of 2003 (SI 2003 No. 2635) partly transposes the European End-of Life Vehicle (ELV) Directive in the UK. The ELV Directive is European environmental legislation which aims to reduce the environmental impact of certain types of vehicles when they are produced as new vehicles, and when they reach the end-of their life and are subsequently discarded by their owners.

2. To this end the ELV Directive places certain restrictions on the use of certain heavy metals in the production of certain new types of vehicles (i.e. Category M1 and N1 vehicles). The Directive also requires the proper de-pollution of vehicles at the end-of their life and requires the recycling and recovery of ELVs to certain levels (currently this is set at 85 per cent overall recovery, with 80 per cent recycling, by weight of ELVs).

3. The ELV Directive contains a 'technical annex' (Annex II) listing the restrictions on the use of certain heavy metals in new vehicles and component parts for these vehicles. Annex II is periodically up-dated by a Technical Adaptation Committee (TAC) of the European Commission with input from stakeholders. BIS officials represent the UK on this TAC. A Decision by the European Commission (Decision 2008/689/EC) amended Annex II following discussions in the TAC and following public consultation by the Commission.

4. The ELV Amending Regulations to which this IA relates update the UK's ELV Regulations of 2003 to reflect the Commission Decision 2008/689/EC, changing limits and exemptions on some heavy metals requirements. The Amending Regulations introduce a reference to changes to Annex II such that these changes, and any subsequent changes, will be immediately applied in the UK's Regulations. This will mean that the UK Regulations will be consistent with the Directive without the need for the UK to amend its Regulations each time Annex II itself is changed. The Amending Regulations also introduce some minor administrative changes including a clarification as to the application of the technical restrictions for replacement components. Further, the amending Regulations update the definitions of "hazardous substance" and "EEA state" in line with changes that have taken place since the Regulations were first laid.

Options, Analysis and Risks

5. The UK is required to maintain its own domestic ELV Regulations so that they are in line with the text (and any revisions to the text) of the ELV Directive. The amending Regulations reflect changes to Annex II of the ELV Directive relating to the restrictions on the use of certain heavy metals in certain applications in new vehicles.

6. Though the ELV Directive has a Treaty base of Article 175 and so is 'environmental' in nature, the restriction on the use of certain heavy metals has obvious implications for the European Internal Market in vehicles. The UK thus needs to transpose these requirements into UK law to ensure it plays its part in promoting and protecting the Internal Market in vehicles.

7. The European Commission undertook a public consultation on changes to Annex II of the ELV Directive in 2007. This consultation can be found at the following link http://ec.europa.eu/environment/waste/elv_index.htm. The output from this consultation helped inform the Commission on appropriate changes to Annex II. Following consultation, few stakeholders suggest that the changes are disproportionate or costly.

8. The UK's ELV Regulations of 2003 partly transposed the ELV Directive into UK law. These Regulations introduced the following main provisions of the ELV Directive: restrictions on the use of certain heavy metals in vehicles and their components; the introduction of the Certificate of Destruction (CoD) for ELVs; and the licensing of authorised treatment facilities (ATFs) to deal with ELVs.

9. At the time of transposition, vehicle manufacturers estimated a one-off cost for the heavy metal restrictions of the ELV Directive in the region of £500 million. This reflected costs in terms of research and development to find and test substitutes, re-engineering, re-tooling, and changes to production processes. These cost estimates reflected the Technical Annex to the Directive and the nature of the exemptions contained within it, particularly in terms of whether they were time-limited or not. Thus the cost estimate at the time the 2003 ELV Regulations were made was expected to reflect subsequent textual changes to Annex II, particularly when it was up-dated as exemptions expired.

10. The Amendment Regulations which amend the 2003 ELV Regulations provide for six main changes to the Regulations. These changes and their implications in terms of costs, benefits and risks are discussed in turn below.

(i) Regulation 2(2)(a)

11. This regulation updates the definition of EEA state but this has no cost/burden implications for stakeholders.

(ii) Regulation 2(2)(c)

12. This Regulation transposes Article 4 of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures but has no cost/burden implications for stakeholders.

(iii) Regulation 2(3)

13. This Regulation deals with the restrictions on the use of certain heavy metals in new types of vehicles and components of vehicles. The Regulations now reference changes to Annex II of

the Directive as applying via the Regulations, without the need for the Regulations to be amended.

14. This amendment to the Regulations will reduce costs to the public sector, because it will mean that each time Annex II of the Directive is changed there will no longer be a need for the UK to introduce amending Regulations. The savings in legal time and in administrative resources are difficult to estimate but are likely to be in the region of £7,000 for each new set of amending Regulations that would otherwise have been required, based on the BIS Ready Reckoner and the following assumptions:

- 3 days of a G6 lawyer
- 3 days of G7 time
- 3 weeks of an HEO time
- 4 days of a G7 economist
- 1 day of SCS time

Any savings would be on an annual basis, as the Annex is revised about once a year.

15. This amendment to the Regulations should also be of some benefit to businesses affected by the Regulations, because it will give them greater certainty with respect to the timing of their legal obligations. Future changes to Annex II of the Directive will apply in the UK as soon as they are adopted in Europe, rather than there being a delay whilst the UK amends its own implementing Regulations. This reduction in uncertainty is difficult to quantify, but should provide some small benefit to businesses affected by the Regulations.

16. Amendments to Annex II are only made after detailed consultation with member States and stakeholders, with discussions taking place during Technical Adaptation Committee (TAC) meetings. Changes to the Annex are only made on the basis of technical evidence and allow vehicle and component producers suitable timescales to adjust their production processes to meet the new requirements. Impact Assessments of any further changes to Annex II proposed by the Commission will be carried out upon publication.

17. With respect to Annex II of the Directive itself, the amending Regulations referencing changes to Annex II applying directly under the UK Regulations means that Commission Decision 2008/689/EC 'forms part' of the UK's Regulations. There are a number of changes to Annex II resulting from Decision 2008/689/EC. Crucially many other member States have already transposed these changes and vehicle and component manufacturers for the most part supply vehicles to more than one Member State. Thus, given the Internal Market nature of these heavy metal restrictions, vehicles and components of vehicles put on the UK market, or produced in the UK for the European market, are working under the revised technical requirements of the ELV Directive.

18. From the assessment in paragraphs 9 and 16 above, and from the following information and views we have obtained from UK vehicle manufacturers and component suppliers we do not expect any additional measureable costs and benefits from Decision 2008/689/EC:

- The exemptions to the heavy metal restrictions in Exemptions 2(a)-(b), 4(a), 7(a)-(b), 8(a)-(b), 9, 11, 12(a)-(b), 14(a)-(b), and 15 employ the 'repair as produced' principle. This means that even when the exemptions expire for new types of vehicles, after a

certain date, they still apply to spare parts for these vehicles. This prevents the premature obsolescence of whole vehicles if they require an existing part to be replaced, for whatever reason. UK vehicle manufacturers and component suppliers are already reflecting this principle under the text of the ELV Directive, because they produce vehicles and components and parts for the European market and not just for the UK market.

- Exemption 2(c) introduces a slightly lower level of exemption for use of lead in aluminium (0.4%), but this is judged not to be an issue as the old level of lead use (1.5 per cent) to still be used for spare parts for existing vehicles.
- Exemption 4(b) is a new entry allowing continued use of lead in certain applications for bearing shells and bushes until 1 July 2011.
- Exemptions 7(a)-(c) (entry 8 in the 2003 Regulations - which was due to expire on 1 July 2005) is now split into 3 separate parts, each with its own specific expiry date ranging from 1 July 2005 to 1 July 2009.
- Exemption 8(a)-(b) introduced a time-limit for the exemption of lead in solder for certain applications (31 December 2010), but again this was mitigated by allowing this exemption to continue for spare parts for new types of vehicles placed on the market before that date. Subsequently, all of the main vehicle manufacturer and vehicle supplier associations (i.e. ACEA, JAMA, KAMA, and CLEPA) have supported the Commission's proposal to allow the use of lead in solder in certain separate non-glass and glass applications to continue until a variety of end dates chosen to suit each of 10 particular applications (from 1 January 2011 to 1 January 2016). These associations said that the time-scale for this exemption would enable them to find alternatives at minimal cost. The exemption for spare parts should reinforce this. In terms of any impact on the environment from this exemption, the low levels of lead used in these applications and the high levels of recycling of lead achieved using current recycling technologies, suggests that there will be a marginal impact on the environment.
- Exemption 11; basis of expiry date changed from 1 July 2007 to vehicles Type Approved before 1 July 2006.
- Exemption 12(b) was a new entry allowing continued use of hexavalent chromium in certain assemblies until 1 July 2008.
- In terms of the use of mercury in lamps and displays (the new Exemption 14(a)-(b)), ACEA, JAMA, KAMA, and CLEPA also supported the Commission's exemption for the use of mercury in lamps and displays until 1 July 2012. This time period, coupled with the exemption continuing for the use in spare parts, will give industry sufficient time to produce mercury-free alternatives at minimal cost.

19. The environmental impacts from the changes to the Annex are expected to be minimal given the low levels of heavy metals used currently, the minor changes set out above and the continuation of their use in spare parts. However, the changes play their part in continuing to bring about the overall expected environmental benefits of the Directive, including reduced emissions of carbon dioxide equivalents and oxides of sulphur and nitrogen, reduced stratospheric ozone depletion and water eutrophication, and reduced rates of non-renewable resource depletion.

20. As a consequence of the above, we do not expect any measureable changes from Decision 2008/689/EC with respect to the original cost and benefit estimates of Annex II of the ELV Directive as outlined in the RIA that was produced for the original 2003 Regulations.

21. This Regulation also clarifies the intention of the existing Regulation (Regulation 6 of the 2003 Regulations) and guidance that anyone (not just vehicle producers) placing vehicles or components of vehicles on the UK market for the first time needs to adhere to the heavy metal restrictions of the Regulations. There are approximately 7,700 vehicle and vehicle component manufacturers in the UK.

22. The heavy metal restrictions of the UK's ELV Regulations are enforced by the Vehicle Certification Agency (VCA). Given the experience and knowledge gained over the last six years of implementing the heavy metal restrictions of the ELV Directive in the UK, the current levels of compliance, and given that obligations in this respect have been set out clearly in the ELV Directive, UK consultation documents, previous impact assessments and UK Guidance to the Regulations, it is judged that relevant firms comply with this obligation already. Thus we do not expect any additional costs or benefits from this Regulation.

(iv) Regulation 2(8)

23. This Regulation includes powers of entry and inspection which are in line with those in the subsequent End of Life Vehicles (Producer Responsibility) Regulations 2005 such that were it to be the case that entry and inspection were required by the enforcement agency to carry out their functions under the 2003 ELV Regulations they would have those powers. However, in practice over the last 7 years, these circumstances have not occurred and there is no current plan to use the increased powers. Thus no additional costs are expected.

(v) Regulation 2(13)

24. This Regulation removes Regulation 35 of the current 2003 ELV Regulations. The disclosure of information with respect to the vehicle register is already regulated by the Driver and Vehicle Licensing Agency (DVLA) under separate regulations. Regulation 35 of the 2003 ELV Regulations is thus in effect superfluous. Its removal is thus not expected to produce any additional costs. There may be some benefit from removal by reducing any possible confusion in relation to this part of the Regulations, but this is expected to be minimal at best.

(vi) Regulation 2(14)

25. This Regulation omits Schedule I of the 2003 Regulations since this will now not be needed (see paragraphs 13-15 above).

Enforcement, Monitoring and Evaluation

26. The heavy metals restrictions of the 2003 ELV Regulations are enforced in the UK by the Vehicle Certification Agency (VCA). Current levels of enforcement activity are in the region of £100,000 per annum. This is not expected to be affected by the amending Regulations because vehicle manufacturers and component suppliers operate already in an environment which is consistent with the amending Regulations.

27. The 2003 ELV Regulations are monitored by the Department for Business Innovation and Skills (BIS). This includes evaluating the effectiveness of the Regulations through regular

contact with all operators involved with ELVs, and particularly via the BIS-led formal ELV Consultation Group.

'Do nothing' Option

28. Failure to amend UK legislation to take into account of technical changes agreed at a European level would lead to a risk of infringement proceedings against the UK.

Conclusion and Recommendation

29. The Amendment Regulations which amend the 2003 ELV Regulations are not expected to have any measureable additional impact on the current costs and benefits of the 2003 ELV Regulations. Two of the amending Regulations provide clarity, but will not affect the current activities undertaken by those placing vehicles and/or components for vehicles on the UK market, nor will they affect the current activities undertaken by those dealing with ELVs in the UK.

30. The Regulation that relates to Annex II of the ELV Directive provides that the UK Regulations are up-to-date and will remain up-to-date with changes to Annex II. This should provide some small savings to the public sector, and to businesses obligated with respect to Annex II.

31. In terms of the Commission Decision 2008/689/EC, European, including UK, vehicle manufacturers and component suppliers have been consulted by the European Commission on this Decision. They do not expect any measureable additional costs or benefits from the Decision, which provides for some up-dating of when certain exemptions are to expire but provides for certain exemptions to continue for spare parts for vehicles put on the market prior to the exemption itself expiring. It is expected that the vast majority of vehicle manufacturers and component suppliers already are reflecting the revised Annex II and where they do not the industry have indicated that changes would be at minimal cost.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	Yes	No
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

SPECIFIC IMPACT TESTS

Competition Assessment

The Amending Regulations are not expected to have any significant impact on competition in the UK.

Small Firms Impact Test

The Amending Regulations are not expected to have any significant impact on small firms.

Legal Aid

The Amending Regulations are not expected to have any material effect on the criminal or civil liability of those who it affects, and so should not have any impact on legal aid in the UK.

Sustainable Development

The Amending Regulations are not expected to have any significant impact on sustainable development.

Carbon Impact Assessment

The Amending Regulations are not expected to have any significant carbon impact.

Health Impact Assessment

The Amending Regulations are not expected to have any significant health impacts.

Race, Disability and Gender Impact Assessments

After initial screening as to the potential impact of this regulation on race, disability and gender equality it has been decided that there will not be a major impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both.

Human Rights

The Amending Regulations are not expected to impact on the rights and freedoms of individuals as set out in the Human Rights Act 1998.

Rural Proofing

The Amending Regulations are not expected to have significant impacts on rural areas or circumstances.

TRANSPOSITION NOTE

Transposition note in relation to the End of Life Vehicle (Amendment) Regulations 2010

These regulations transpose the provisions of:

- (a) Directive 2008/112/EC in so far as they relate to the ELV Directive 2000/53; and
 - (b) Commission Decision 2008/689/EC
-

Directive 2008/112/EC amends the definition of “hazardous substance” in the ELV Directive from the 1st December 2010

Article	Objectives	Implementation	Responsibility
4	Amendment to definition of “hazardous substance” in ELV Directive	Regulation 2(2)(c) of this instrument.	Secretary of State

Commission Decision 2008/689/EC amends Annex II of the ELV Directive

Article	Objectives	Implementation	Responsibility
2	Amendment to Annex II of the ELV Directive	Regulation 2(3) of this instrument includes a reference to Annex II of the ELV Directive, as that Annex is amended from time to time.	Secretary of State