

EXPLANATORY MEMORANDUM TO
THE ALTERNATIVE FUEL LABELLING AND GREENHOUSE GAS EMISSIONS
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2019

2019 No. 421

1. Introduction

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

2. Purpose of the instrument

2.1 The purpose of this instrument is to introduce the Alternative Fuel Labelling and Greenhouse Gas Emissions (Miscellaneous Amendments) Regulations 2019 (the “2019 Regulations”). The first three parts of this instrument introduce fuel labelling requirements. The fourth part amends The Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012 (SI 2012/3030) (the “2012 Regulations”).

2.2 This instrument seeks to implement a common set of labels and identifiers for common transport fuels in the UK.

2.3 This instrument also amends the 2012 Regulations to allow certain transport fuel suppliers to claim credits relating to the reduction of greenhouse gas emissions resulting from the production of transport fuels, known as upstream emissions, in meeting emissions reduction targets in 2019. These credits incentivise producers of transport fuels to reduce emissions, primarily through reductions in flaring (the burning of waste natural gas during oil extraction).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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

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

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The fuel labelling aspects of this instrument transpose the requirements of Directive 2014/94/EU on the Deployment of Alternative Fuels Infrastructure (“the Directive”) OJ No L 307 28.10.2014,p.1. The Directive seeks to deliver a build-up of recharging and refuelling infrastructure for alternative fuels across the European Union, by harmonising certain standards for such infrastructure. This instrument implements parts of Article 7 of the Directive relating to the labelling of common transport fuels for use with motor vehicles. While the Directive is aimed at increasing the uptake of “alternative fuels”, such fuels include any fossil based fuel, which is blended in part with biofuel. As both petrol and diesel are widely blended with biofuels such as ethanol and biodiesel, these conventional transport fuels fall under the definition of “alternative fuels” for the purpose of the fuel labelling.
- 6.2 The amendment to the 2012 Regulations follow an earlier amendment made in 2018 by the Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018, No. 374 (the “2018 Regulations”).
- 6.3 The 2012 Regulations include a requirement to report greenhouse gas emissions resulting from the use of transport fuels. The 2018 Regulations introduced a target for a reduction in the greenhouse gas intensity of the fuels used in vehicles of 6% by 2020. This reduction is measured against a baseline representing typical greenhouse gas emissions of fossil fuel consumed in the EU in 2010. This implements aspects of Directive 98/70/EC2, referred to as the Fuel Quality Directive.
- 6.4 In addition to the 6% by 2020 target required by the Fuel Quality Directive, the 2018 Regulations also introduced an interim 4% target in 2019 to allow transport fuel suppliers to adjust to the reporting mechanism ahead of 2020.

7. Policy background

What is being done and why?

- 7.1 At present there is no requirement for transport fuel sold in the UK to be accompanied by standardised labelling. As the range of fuels has increased at forecourts, and flexible car use models, such as car clubs, become more common, a standardised labelling system that allows consumers to easily identify different fuels across different brands and countries, will help reduce mis-fueling and further encourage the uptake of alternative transport fuels.
- 7.2 As required by the Directive, standards bodies from EU member states together developed graphical identifiers that cover the full range of alternative transport fuels. These graphical identifiers will be implemented across the EU.
- 7.3 In the UK, the British Standards Institute published the British Standard, BS EN 16942 “Fuels, Identification of vehicle compatibility, Graphical expression for consumer information” in 2016. The 2019 Regulations create the legal requirement for obligated parties to adopt the labelling required to be introduced by the Directive.
- 7.4 The 2019 Regulations set out what the graphical identifiers look like and how obligated parties should ensure they incorporate them into labels that consumers can use to identify different transport fuels.
- 7.5 The 2019 Regulations place an obligation on the operators of refuelling infrastructure (filling stations) to place graphical identifiers, in the form of standardised labels, on

both transport fuel dispensers and their nozzles as to the fuel to which that equipment dispenses.

- 7.6 Vehicle manufacturers will be obligated to ensure that the relevant identifiers for all the fuels a new vehicle is compatible with are placed near the fuel filler cap and in the vehicle manual. For example, a new petrol car will likely be compatible with both E5 and E10 petrol grades (i.e. petrol grades containing up to 5% ethanol and 10% ethanol respectively), and so both identifiers would need to be displayed. A new diesel vehicle would likely be compatible with B7 diesel, and so only be labelled with this identifier.
- 7.7 Motor vehicle dealers will also need to ensure that this information is clearly available to prospective users of the vehicle while that vehicle is offered for sale or lease.
- 7.8 The 2019 Regulations allow time for obligated parties to comply with the labelling requirements. For filling stations, operators will have 5 months from the coming into force date to comply with regulations, while vehicle manufacturers and dealers will have 12 months.
- 7.9 The identifiers are split into three groups:
- 7.10 Petrol type fuels are shown by a circle containing the letter E and a number. The E refers to ethanol, while the number indicates the maximum percentage of ethanol blended into the petrol. A circle containing E5 is therefore a petrol fuel containing between 0 and 5 percent ethanol.
- 7.11 Diesel type fuels are shown by a square containing the letter B and a number. The B refers to biodiesel, while the number indicates the maximum percentage of biodiesel blended into the diesel. A square containing B7 is therefore a diesel fuel containing between 0 and 7 percent biodiesel.
- 7.12 Gaseous type fuels are shown by a diamond containing an abbreviation relevant to that fuel. Hydrogen is shown as H2, Liquefied Petroleum Gas as LPG and Compressed Natural Gas as CNG.
- 7.13 Only the identifier, at appropriate scale, is required on fuel nozzles, near filler caps and in vehicle manuals. A larger identifier must also be placed on the dispenser of gaseous fuels.
- 7.14 For petrol and diesel type fuel dispensers, a larger label is required to be placed on them which contains more information on the precise grade of fuel available from that dispenser. This includes the product name in text, such as petrol or diesel, and the octane rating. Where the ethanol content is above 5% in petrol, or the biodiesel content is above 7% in diesel, the appropriate consumer message should also be included as required by regulation 3 of the Biofuel (Labelling) Regulations 2004. This is to ensure consumers are made aware of possible vehicle compatibility issues.
- 7.15 It is the duty of the Secretary of State to enforce the fuel labelling aspects of the 2019 Regulations. It provides for the Secretary of State to authorise any suitable person to carry out functions under this instrument (an enforcement authority). The current intention is for the Secretary of State to authorise The Office for Product Safety and Standards, a body situated within the Department for Business, Energy and Industrial Strategy to carry out the enforcement functions on the Secretary of State's behalf.
- 7.16 Where obligated parties are found to be non-compliant with the fuel labelling requirements, a set enforcement regime is defined. Obligated parties will first have the opportunity to correct incidences of non-compliance. If the non-compliance is not

rectified, civil penalties can be issued. The civil penalty amounts are flexible, with maximum levels defined. Where a civil penalty is issued, it can be appealed to the first tier tribunal court if the subject of the civil penalty believes the enforcement body has applied the 2019 Regulations incorrectly.

- 7.17 While the UK has voted to leave the EU, the UK currently remains a full member and all the rights and obligations of EU membership remain in force. As a result the UK is still required to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.
- 7.18 The 2019 Regulations also amend the 2012 Regulations in relation to Upstream Emissions Reductions credits (UERs). UERs are a way for fuel suppliers to offset some of the greenhouse gas (GHG) emissions resulting from the production and use of transport fuels. Fuel suppliers can purchase UER credits generated from reducing GHG emissions during oil and gas production. Emissions reductions are typically achieved by reducing flaring. Fuel suppliers can then redeem the GHG emissions equivalent of those credits against their GHG emissions obligations in 2020.
- 7.19 At present, the 2012 Regulations permit the use of UERs in 2020 only. This is because the GHG target (a 6% reduction in GHG emissions in 2020 based on 2010 levels) is a 1-year point target. However, the UK has also legislated for an interim 4% target in 2019 in order to allow industry to become familiar with the GHG reduction requirements ahead of the 6% target and compliance period in 2020.
- 7.20 Fuel suppliers have raised a concern about this approach, highlighting that the Government consultation and response that covered the GHG emissions targets did not explicitly exclude UERs from counting towards the 2019 interim target. (<https://www.gov.uk/government/publications/renewable-transport-fuel-obligations-order-government-response>). To address the concerns raised, the 2019 Regulations amend the 2012 Regulations to allow UERs to be counted towards the 2019 interim target.

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

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument creates a new instrument for the provision of fuel labelling, and no consolidation is required in relation to this.
- 9.2 This instrument also makes a minor amendment to the 2012 Regulations. There is no plan to consolidate these regulations at this time.

10. Consultation outcome

- 10.1 A number of workshops were held with key stakeholders ahead of the consultation to discuss how fuel labelling could be best introduced in the UK, along with wider discussions on the other aspects covered by the consultation.
- 10.2 The consultation in relation to fuel labelling was held between July and September 2018 for 12 weeks. It covered a broader range of subjects, including whether and how

best E10 petrol could be introduced in the UK, and changes to the consumer message for E10 petrol. The E10-related aspects will be taken forward separately.

10.3 The consultation was open to the public. A total of 43 responses were received in relation to this part of the consultation from both industry stakeholder and private individuals. The responses received generally supported the approach outlined in the consultation document. However, as a result of the responses received, we have made minor amendments to how the fuel labelling requirements will be implemented. The key changes are:

- Aligning the definition of a "motor vehicle" so that it is consistent with the Road Traffic Act 1988. This ensures the labelling requirements will only apply to vehicles intended for use on the road.
- Extending the time for implementation of the labels to avoid unnecessary costs for obligated parties. Infrastructure operators will have five months from the coming into force of the 2019 Regulations to apply the fuel labels to filling stations, while vehicle manufacturers and dealers will have 12 months before they will need to comply.

10.4 The Department's response to the consultation is available at <https://www.gov.uk/government/consultations/e10-petrol-consumer-protection-and-fuel-pump-labelling>

10.5 In relation to the amendment to the 2012 Regulations, the Department carried out an informal consultation with the agencies and bodies required under Article 2(4) of the Pollution Prevention and Control Act 1999. They each confirmed they are content with the Department's approach.

11. Guidance

11.1 To ensure the fuel labelling aspects of the 2019 Regulations can be easily interpreted by all obligated parties Government will work with stakeholders and the enforcement authority to develop concise and simple guidance on how to comply with the regulations. This will be published before the compliance deadline for fuel retailers.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies. The costs to businesses obligated to comply with the labelling requirements is expected to be around £1.4 million per year for the first 5 years. There are also projected savings to motorists of around £17 million per year. This is based on reduced incidences of mis-fueling and the corresponding reduction in vehicle repair fees.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment in relation to the fuel labelling aspects of the 2019 Regulations is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

12.4 In relation to the amendment to the 2012 Regulations, no further cost benefit analysis is required as the making of this amendment will not alter the original policy intention, on which we have already consulted. That consultation, and the original cost benefit analysis can be accessed here:

<https://www.gov.uk/government/publications/renewable-transport-fuel-obligations-order-government-response>

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to ensure that the impact on businesses in general is kept to a minimum. This has been achieved by only transposing the minimum requirements specified by the Directive, thereby ensuring the transposition does not apply any unnecessary burden.
- 13.3 To keep costs to a minimum, the Department has licensed the reproduction of the identifiers from the BSI standard (BS EN 16942). All the information required to reproduce the labels is available within the legislation and no obligated parties should need to purchase or license the standard from BSI for the purpose of complying with the 2019 Regulations in the UK.
- 13.4 The amendment to the 2012 Regulations will not apply to small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that an enforcement authority will be appointed by the Secretary of State to oversee compliance with the fuel labelling aspects of this instrument. The Department will work with the enforcement agency and industry to monitor the effectiveness of the regulations.
- 14.2 A statutory review clause is included in the Regulation and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the fuel labelling aspects of this instrument impose a duty on the Secretary of State to conduct a review of the instrument and publish a report on the outcome within at least five years of its coming into force. Thereafter, at subsequent intervals not exceeding five years.
- 14.3 The 2012 Regulations already include requirements around monitoring and review which are not impacted by the amendments made by this instrument.

15. Contact

- 15.1 Tim Simon at the Department for Transport, telephone: 07773 643828 or email: tim.simon@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Aaron Berry at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mr Jesse Norman MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.