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STATUTORY INSTRUMENTS

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**2020 No. 1418**

The Road Vehicle Carbon Dioxide Emission  
Performance Standards (Cars and Vans)  
(Amendment) (EU Exit) Regulations 2020

PART 3

Amendment of retained direct EU legislation

CHAPTER 1

Amendment of Regulation (EU) 2019/631

**Amendment of Regulation (EU) No 2019/631**

**3.—(1)** Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO<sub>2</sub> emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011, is amended as follows.

(2) In Article 1—

(a) in paragraph 1—

- (i) for “Union’s target of reducing its greenhouse gas emissions, as laid down in Regulation (EU) 2018/842” substitute “United Kingdom’s target of achieving net zero greenhouse gas emissions by 2050”,
- (ii) omit “and to ensure the proper functioning of the internal market”,

(b) in paragraph 2—

- (i) for “From 1 January 2020, this” substitute “This”,
- (ii) for “an EU fleet-wide” in both places it appears substitute “a Great Britain fleet-wide”,
- (iii) for “the Union” substitute “Great Britain”,
- (iv) omit “until 31 December 2020 in accordance with Regulation (EC) No 692/2008 together with Implementing Regulations (EU) 2017/1152 and (EU) 2017/1153, and from January 2021 measured”,

(c) omit paragraph 3,

(d) in paragraph 4—

- (i) in the opening words, for “EU fleet-wide” substitute “Great Britain fleet-wide”,
- (ii) in points (a) and (b), for “an EU fleet-wide” substitute “a Great Britain fleet-wide”,

(e) in paragraph 5—

- (i) in the opening words, for “EU fleet-wide” substitute “Great Britain fleet-wide”,
- (ii) in points (a) and (b), for “an EU fleet-wide” substitute “a Great Britain fleet-wide”.

## (3) In Article 2—

- (a) in paragraph 1, for “the Union” in each place it appears substitute “Great Britain”,
- (b) in paragraph 2, for “the Union” in both places it appears substitute “Great Britain”,
- (c) in paragraph 4, for “the Union” substitute “Great Britain”,
- (d) after paragraph 4 insert—

“5. This Regulation shall not apply to any vehicle registered in Great Britain which is permanently removed from Great Britain within three months after that registration.”.

## (4) In Article 3—

- (a) in paragraph 1—
  - (i) in point (h)—
    - (aa) omit “in Regulation (EC) No 692/2008 until 31 December 2020, and from 1 January 2021”,
    - (bb) for “Commission” substitute “Secretary of State”,
  - (ii) in point (k), for “EU fleet-wide” substitute “Great Britain fleet-wide”,
  - (iii) after point (n) insert—
    - “;
    - (o) ‘passenger cars’ and ‘new passenger cars’ have the meanings given in Article 2(1)(a);
    - (p) ‘light commercial vehicles’ and ‘new light commercial vehicles’ have the meanings given in Article 2(1)(b)”.

## (5) In Article 4—

- (a) in paragraph 1, omit point (a),
- (b) in paragraph 3—
  - (i) for “the following percentages” substitute “100%”,
  - (ii) omit both indents.

## (6) In Article 5—

- (a) omit the first indent,
- (b) omit “from 2020”,
- (c) for “7,5 g” substitute “3.75g”.

## (7) In Article 6—

- (a) in paragraph 2, 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(1)”,
  - (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) in paragraph 8—
    - (i) for “The Commission may specify, by means of implementing acts,” substitute “Regulations may set out”,
    - (ii) omit the second sentence,
  - (g) after paragraph 8 insert—

“9. 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.”.
- (8) In Article 7—
- (a) in paragraph 1—
    - (i) in the first sentence—
      - (aa) for “each Member State” substitute “the Secretary of State”,
      - (bb) for “its territory” substitute “Great Britain”,
    - (ii) in the second sentence, for “each Member State” substitute “Great Britain”,
    - (iii) omit the third sentence,
    - (iv) in the fourth sentence, for “Each Member State” substitute “The Secretary of State”,
    - (v) 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) omit paragraph 2,
  - (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”,
    - (ii) in the second subparagraph—
      - (aa) for “Commission” substitute “Secretary of State”,
      - (bb) omit “for each Member State”,
  - (e) for paragraphs 5, 6, 7 and 8 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;
- (iii) the manufacturer's calculation of their average specific emissions of CO<sub>2</sub>;
- (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.

6. 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.

7. Regulations may make provision about the procedures for monitoring and reporting of data under this Article, and on the application of Annexes 2 and 3.

8. Regulations may amend the data requirements and data parameters set out in Annexes 2 and 3.”,

(f) in paragraph 9—

(i) for the first subparagraph substitute—

“For the purpose of calculating the average specific emissions of CO<sub>2</sub> of a manufacturer, the Secretary of State shall take into account deviations found in the CO<sub>2</sub> emissions of vehicles in-service as compared to the specific emissions of CO<sub>2</sub> indicated in the certificates of conformity as a result of verifications performed in accordance with Article 13.”,

(ii) omit the second subparagraph,

(iii) in the third subparagraph—

(aa) for “The Commission shall adopt, by means of implementing acts,” substitute “Regulations may set out”,

(bb) omit the second sentence,

(g) in paragraph 10—

(i) in the first sentence—

(aa) for “Commission” substitute “Secretary of State”,

(bb) for “common Union” substitute “United Kingdom”,

(cc) for “Union market” substitute “United Kingdom market”,

(ii) in the second sentence, for “Commission shall transmit to the European Parliament and to the Council that evaluation” substitute “Secretary of State shall publish a report of that evaluation”,

(h) in paragraph 11, for “Member States” substitute “The Secretary of State”.

(9) After Article 7 insert—

*“Article 7a*

*Appeals*

1. Where:

- (a) a manufacturer gives notification to the Secretary of State under Article 7(5);

- (b) the Secretary of State does not agree the manufacturer's calculation of their average specific emissions of CO<sub>2</sub>; and
- (c) the Secretary of State notifies the manufacturer under Article 7(5) that it has exceeded its specific emissions target;

the manufacturer or pool manager may appeal against the Secretary of State's notification to the First-tier Tribunal on the ground that the Secretary of State's calculation under Article 7(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 8 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.”.

(10) In Article 8—

- (a) in paragraph 1, for “Commission” substitute “Secretary of State”,
- (b) in paragraph 2, for “EUR 95” substitute “£86”,
- (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 beginning with 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.

5. Where action is taken under this Article for the recovery of any excess emissions premium, the amount payable is, 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.)(2) as if it were a judgment entered in the county court.

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

(11) In Article 9—

(a) in paragraph 1—

- (i) for “Commission” substitute “Secretary of State”,
- (ii) omit “, by means of implementing acts,”,
- (iii) for “the Union” in each place it appears substitute “Great Britain”,

(b) in paragraph 3—

- (i) for “EU fleet-wide” substitute “Great Britain fleet-wide”,
- (ii) for “Commission” in both places it appears substitute “Secretary of State”.

(12) In Article 10—

(a) in paragraph 1—

- (i) for “of fewer than 10 000 new passenger cars or 22 000 new light commercial vehicles registered in the Union per calendar year, and which” substitute “where the number of new passenger cars or new light commercial vehicles registered in Great Britain for which that manufacturer is responsible per calendar year is less than the small volume derogation threshold (calculated in accordance with Annex 4), and where the manufacturer”,
- (ii) in point (b) for “that is responsible in total for fewer than 10 000 new passenger cars or 22 000 new light commercial vehicles registered in the Union per calendar year” substitute “where the number of new passenger cars or new light commercial vehicles registered in Great Britain 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 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 Union per calendar year” substitute “where the number of new passenger cars registered in Great Britain 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 4)”,
- (ii) for “Commission” in each place it appears substitute “Secretary of State”,

(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 “the Secretary of State”,

(g) in paragraph 7, for “Commission” substitute “Secretary of State”,

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(2) [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.

- (h) in paragraph 8—
  - (i) for “The Commission is empowered to adopt delegated acts in accordance with Article 17 laying down rules to” substitute “Regulations may”,
  - (ii) for “The Commission is also empowered to adopt delegated acts in accordance with Article 17 to” substitute “Regulations may”,
- (i) in paragraph 9—
  - (i) for “, subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council” 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(3))”,
  - (ii) omit the associated footnote.
- (13) In Article 11—
  - (a) in paragraph 1, for “Commission is empowered to adopt delegated acts in accordance with Article 17 in order to” substitute “Regulations may”,
  - (b) in paragraph 2—
    - (i) for “The Commission shall adopt, by means of implementing acts,” substitute “Regulations must set out”,
    - (ii) omit the second sentence,
    - (iii) in point (d)(ii), for “Union law” substitute “United Kingdom law”,
  - (c) in paragraph 3, for “Commission” substitute “Secretary of State”,
  - (d) in paragraph 4, for “Commission” substitute “Secretary of State”.
- (14) In Article 12—
  - (a) in paragraph 1, for “Commission” in each place it appears substitute “Secretary of State”,
  - (b) in paragraph 2—
    - (i) for “Commission” in both places it appears substitute “Secretary of State”,
    - (ii) for “it” substitute “the Secretary of State”,
  - (c) in paragraph 3, for “Commission” in both places it appears substitute “Secretary of State”,
  - (d) in paragraph 4—
    - (i) for “The Commission shall adopt, by means of implementing acts,” substitute “Regulations may set out”,
    - (ii) omit the second sentence.
- (15) In Article 13—
  - (a) in paragraph 2—
    - (i) in the first subparagraph, for “type-approval authorities shall verify for those vehicle families for which they are responsible for the type-approval” substitute “the Secretary of State shall verify”,
    - (ii) in the second subparagraph, for “Type-approval authorities” substitute “The Secretary of State”,
  - (b) in paragraph 4—
    - (i) in the first subparagraph—

- (aa) for “The Commission shall determine, by means of implementing acts,” substitute “Regulations may set out”,
- (bb) omit the second sentence,
- (ii) for the second subparagraph substitute—
  - “Before making regulations referred to in the first subparagraph, the Secretary of State may make regulations setting out the guiding principles and criteria for defining the procedures referred to in that subparagraph.”.
- (16) In paragraph 2 of Article 14, for the words from “The Commission” to “establishing” substitute “Regulations may set out”.
- (17) In Article 15—
  - (a) for paragraph 1 substitute—
    - “1. The Secretary of State must, in 2023, thoroughly review the effectiveness of this Regulation, and publish a report of that review.”,
  - (b) in paragraph 2—
    - (i) for “Commission” in both places it appears substitute “Secretary of State”,
    - (ii) for “Union” in both places it appears substitute “United Kingdom”,
    - (iii) omit “reported under [Directive 2014/94/EU](#) of the European Parliament and of the Council” and the associated footnote,
  - (c) in paragraph 3, for “EU fleet-wide” substitute “Great Britain fleet-wide”,
  - (d) in paragraph 4, for “Commission” in each place it appears substitute “Secretary of State”,
  - (e) in paragraph 5—
    - (i) for “Commission” in both places it appears substitute “Secretary of State”,
    - (ii) omit “in all affected Member States”,
    - (iii) omit the last sentence,
  - (f) omit paragraph 6,
  - (g) in paragraph 7—
    - (i) for “Commission shall, by means of implementing acts, determine” substitute “Regulations may set out”,
    - (ii) omit the second sentence,
  - (h) in paragraph 8, for the words from “The Commission” to “in order to” substitute “Regulations may”.
- (18) Omit Article 16.
- (19) For Article 17 substitute—

*“Article 17*

*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.”.

- (20) In Article 18—
- (a) omit the first paragraph,
  - (b) in the second paragraph, for “the repealed Regulations shall” substitute “Regulations (EC) No 443/2009 and (EU) No 510/2011 are to”.
- (21) After Article 19, omit—
- (a) “It shall apply from 1 January 2020.”,
  - (b) “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.
- (22) In Part A of Annex 1—
- (a) in point 5, for “Commission” substitute “Secretary of State”,
  - (b) in point 6—
    - (i) for “EU fleet-wide” in each place it appears substitute “Great Britain fleet-wide”,
    - (ii) in point 6.3, omit the text from “For new passenger cars registered in Member States” to “in the subsequent years;” and the associated footnote.
- (23) In Part B of Annex 1—
- (a) in point 5, for “Commission” substitute “Secretary of State”,
  - (b) in point 6, for “EU fleet-wide” in each place it appears substitute “Great Britain fleet-wide”.
- (24) In Part A of Annex 2—
- (a) in point 1—
    - (i) for “Member States” substitute “The Secretary of State”,
    - (ii) for “their territory” substitute “Great Britain”,
    - (iii) omit the subparagraph beginning “Member States shall make available”,
  - (b) in point 2, for “Member States” substitute “the Secretary of State”,
  - (c) in point 3, for “Member States” substitute “the Secretary of State”.
- (25) In Part B of Annex 2—
- (a) in the opening words, for “Member States shall report” substitute “the Secretary of State shall collect”,
  - (b) in section 1, omit “Member State” and the associated footnote,
  - (c) in subparagraph (a) of section 2—
    - (i) omit “EU”,
    - (ii) for “Member State” substitute “United Kingdom”,
    - (iii) in footnote (1)—
      - (aa) for “Member State” substitute “United Kingdom”,
      - (bb) omit “EU”.
- (26) In Part A of Annex 3—
- (a) in point 1.1—

- (i) for “Member States” substitute “the Secretary of State”,
- (ii) for “their territory” substitute “Great Britain”,
- (iii) omit the subparagraph beginning “Member States shall make available”,
- (b) in point 1.2—
  - (i) omit point 1.2.1.,
  - (ii) omit point 1.2.1.1.,
  - (iii) in point 1.2.1.2., for “Member States shall as a minimum report” substitute “the Secretary of State shall as a minimum collect”,
  - (iv) in point 1.2.2.—
    - (aa) for “Commission” substitute “Secretary of State”,
    - (bb) for “2021” substitute “2022”,
  - (v) in point 1.2.3.—
    - (aa) in the first subparagraph, for “Commission” substitute “Secretary of State”,
    - (bb) in the second subparagraph, for “reported by the Member States” substitute “collected by the Secretary of State”,
  - (vi) in point 1.2.4., in the first subparagraph for “2020” substitute “2021”,
  - (vii) in point 1.2.5., for “Commission” in each place it appears substitute “Secretary of State”,
- (c) in point 2—
  - (i) in the third sentence, for “Member States” substitute “The Secretary of State”,
  - (ii) in the fourth sentence, for “Member States” substitute “Secretary of State”,
  - (iii) in the fifth sentence, for “Member States” substitute “the Secretary of State”,
- (d) in point 3, for “Member States” substitute “The Secretary of State”.
- (27) In Part B of Annex 3—
  - (a) in the opening words, for “Member States are” substitute “the Secretary of State is”,
  - (b) in point 1—
    - (i) for “Member States” substitute “The Secretary of State”,
    - (ii) for “their territory” substitute “Great Britain”,
  - (c) in point 2, in the second subparagraph, for “Commission” substitute “Secretary of State”.
- (28) In Part C of Annex 3—
  - (a) in the opening words, for “Member States shall report” substitute “the Secretary of State shall collect”,
  - (b) in section 1, omit “Member State” and the associated footnote,
  - (c) in section 2—
    - (i) in subparagraph (a)—
      - (aa) for “EU” substitute “United Kingdom”,
      - (bb) for “Member State” substitute “United Kingdom”,
    - (ii) in footnote (1), for “Member State shall as a minimum provide” substitute “Secretary of State shall as a minimum collect”,
    - (iii) in footnote (2)—
      - (aa) for “Member State” substitute “United Kingdom”,

- (bb) omit “EU”.
- (29) For Annex 4 substitute—

*“ANNEX 4*  
*DEROGATION THRESHOLDS*

**Small volume derogation thresholds**

1. 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,
- (c) the small volume 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,

- (d) the small volume derogation threshold in relation to a manufacturer not falling within point (c) is 4,300.
2. For 2025 and subsequent years, the small volume derogation threshold is to be such amount as is specified in Regulations.

**Niche volume derogation thresholds**

3. 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:

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

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 niche volume derogation threshold in relation to a manufacturer not falling within point (a) is 50,000.

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