Net Zero, Energy and Transport Committee

33rd Meeting, 2023 (Session 6)

Tuesday, 21 November 2023

Cover note: The Vehicle Emissions Trading Schemes Order 2023 [draft]

Title of Instrument:	The Vehicle Emissions Trading Schemes Order 2023 [draft]
Type of Instrument:	Affirmative
Laid Date:	16 October 2023
Circulated to Members:	20 October 2023
Meeting Date:	21 November 2023
Minister to attend meeting:	Yes
Motion to approve:	S6M-11061
Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?	No
Reporting deadline:	1 December 2023

Background

1. A draft of the instrument was laid before the UK Parliament, the Scottish Parliament and Senedd Cymru for approval by resolution of each House of Parliament, the Scottish Parliament and Senedd Cymru.

2. An electronic copy of the instrument is available at: https://www.legislation.gov.uk/ukdsi/2023/9780348252453/contents (legislation.gov.uk).

3. Copies of the explanatory and policy notes can be found in **Annexe A**.

Purpose

4. The Vehicle Emissions Trading Schemes Order 2023 establishes four Great Britain-wide trading schemes (the Vehicle Emissions Trading Schemes, or “VETS”).

Two of the schemes are intended to limit the numbers of new non-zero emission cars and vans that may be registered in Great Britain, while the other two schemes are intended to limit CO2 emissions from non-zero emission cars and vans registered in Great Britain. The VETS will replace the UK's current legislative regime governing CO2 emissions of new cars and vans as regards Great Britain, but the current regime will be preserved in Northern Ireland for the time being.

Delegated Powers and Law Reform (DPLR) Committee consideration

5. At its meeting on 31 October 2023, the DPLR Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

- Read the Official Report – 31 October 2023 (parliament.scot)
- Delegated Powers and Law Reform Committee, 62nd Report 2023 (Session 6): Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 31 October 2023 (SP Paper 457)

Procedure for Affirmative instruments

6. The draft instrument was laid on 16 October 2023 and referred to the Net Zero, Energy and Transport Committee. The instrument is subject to affirmative procedure (Rule 10.6). It is for the Net Zero, Energy and Transport Committee to recommend to the Parliament whether the instrument should be approved. The Cabinet Secretary for Transport, Net Zero and Just Transition has, by motion S6M-11061 (set out in the agenda), proposed that the Committee recommends the approval of the instrument. The Committee will take evidence on the instrument from the Cabinet Secretary and officials before the motion is debated.

Recommendation

7. The Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly, by 1 December 2023.

Clerks
Net Zero, Energy and Transport Committee

Annexe A – Accompanying documents

EXPLANATORY NOTE

(This note is not part of the Order in Council)

This Order is made under sections 44, 46(3), 54 and 90(3) of, and Parts 1 and 3 of Schedule 2 and paragraph 9 of Schedule 3 to, the Climate Change Act 2008 (c. 27). It establishes four new trading schemes which limit, or encourage the limitation of, CO2 emissions resulting from the registration of new cars and light commercial vehicles (vans). Two of the schemes apply to cars: the Non-Zero-Emission Car Registration Trading Scheme ("CRTS") and the Non-Zero-Emission Car CO2 Trading Scheme ("CCTS"), and two apply to vans: the Non-Zero-Emission Van Registration Trading Scheme ("VRTS") and the Non-Zero-Emission Van CO2 Trading Scheme ("VCTS"). They are collectively referred to as "the Trading Schemes", and apply in Great Britain.

Part 1 contains definitions that are used throughout the Order, including key concepts such as "car" and "van", the "trading period" (the date the Order comes into force to 31st December 2030), "scheme year", "trading window" (the period from 1st November to 31st December following a scheme year), "specific emissions of CO_2", "registration", "NZE" (non-zero-emission) and "ZE" (zero-emission). Part 2 establishes the Trading Schemes (article 4) and makes some general provision in relation to the schemes and their administration.

Chapter 1 of Part 3 contains provisions which are specific to the CRTS. This trading scheme applies to the activity of registering NZE cars, measured by reference to the number of such cars registered (article 10). The manufacturer of a car which is registered during a scheme year, or a group of such manufacturers, is a CRTS participant (article 11). CRTS allowances are allocated by the administrator according to the proportion of a participant's new car registrations which may be NZE cars (article 13 and Part 1 of Schedule 6). Participants may acquire credits in relation to activities that represent a reduction in CO2 emissions, subject to limits (articles 18 to 20 and 23). Certain credits may also be acquired by non-participants which manufacture special purpose vehicles ("SPVs") (articles 21 and 22). CRTS participants may trade CRTS allowances and credits with other CRTS participants during the trading window, and may acquire credits from SPV manufacturers, following which they must account for their activity during a scheme year by surrendering CRTS allowances or credits (article 27). Failure to do so results in an obligation to make a payment of £15,000 for each unit of unaccounted for activity (article 28).

Chapter 2 of Part 3 contains provisions which are specific to the CCTS. This trading scheme applies to the activity of registering NZE cars, measured by reference to each gram of CO2 emitted by such cars (article 31). The manufacturer of 1,000 or more NZE cars which are registered during a scheme year, or a group of such manufacturers, is a CCTS participant (article 32). CCTS allowances are allocated by the administrator according to the number of NZE car registrations attributable to the participant, multiplied by that participant's baseline CO2 emissions, calculated in accordance with Schedule 1. Activity in the CCTS is measured by reference to a car's specific emissions of CO_2, reduced by any CO_2 savings from eco-innovations (article 36). Trading CCTS allowances is permitted in the trading window (article 37) and activity in each scheme year must be accounted for by surrendering CCTS allowances (article 38). CCTS participants must make a payment of £86 for each unit of unaccounted for activity (article 39).

Chapter 3 of Part 3 contains provisions which are specific to the VRTS. These provisions replicate the CRTS in relation to vans, with certain differences. These differences relate to matters such as the proportion of a VRTS participant's new van sales which may be NZE vans (Part 2 of Schedule 6), and the payment amount for a unit of activity which is unaccounted for in the VRTS (usually £18,000, article 60).

Chapter 4 of Part 3 contains provisions which are specific to the VCTS. These provisions replicate the CCTS in relation to vans. Activity in the VCTS is measured in the same way as in the CCTS, although there is provision to assess the specific emissions of CO_2 of vans which are manufactured in two or more stages (Schedule 3).

Part 4 contains provision about information required for the purposes of the Trading Schemes. Part 5 includes powers to enable the administrator to monitor compliance with the Order. Part 6 includes a range of civil penalties that may be imposed in respect of specified breaches of the Order. Part 7 contains provision about appeals from decisions made by the administrator to the First-tier Tribunal. Part 8 deals with the retained EU law governing the CO_2 emission limits of new cars and vans which the Trading Schemes build on and replace for Great Britain, and which remains in place, with consequential amendments, for Northern Ireland.

A regulatory impact assessment of the effect that the Trading Schemes will have on the costs of business, the voluntary sector and the public sector is available from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR, and is available alongside the instrument and the Explanatory Memorandum on www.legislation.gov.uk.

POLICY NOTE

THE VEHICLE EMISSIONS TRADING SCHEMES ORDER 2023

SI 2023/XXX

The above instrument was made in exercise of the powers conferred by sections 44, 46(3), 54 and 90(3) of, and Parts 1 and 3 of Schedule 2 and paragraph 9 of Schedule 3 to, the Climate Change Act 2008. The instrument is subject to the affirmative procedure.

This is a joint instrument between the Scottish, UK and Welsh governments. The procedures for making a Great Britain-wide trading scheme are set out in Schedule 3 of the Climate Change Act 2008. 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 UK House of Parliament, the Scottish Parliament and Welsh Senedd.

At the time of laying, the Northern Ireland Assembly is unable to meet this requirement and, as such, the territorial extent of the vehicle emissions trading schemes contained in the instrument cannot include Northern Ireland. Consequential amendments to the existing legislative regime governing carbon dioxide (CO2) emissions limits of new cars and vans in the United Kingdom are made under section 54 of the Climate Change Act 2008 and preserve that regime for Northern Ireland.

Summary Box

The Vehicle Emissions Trading Schemes Order 2023 establishes four Great Britain wide trading schemes (the Vehicle Emissions Trading Schemes, or “VETS”). Two of the schemes are intended to limit the numbers of new non-zero emission cars and vans that may be registered in Great Britain, while the other two schemes are intended to limit CO2 emissions from non-zero emission cars and vans registered in Great Britain. The VETS will replace the UK’s current legislative regime governing CO2 emissions of new cars and vans as regards Great Britain, but the current regime will be preserved in Northern Ireland for the time being.

Policy Objectives

The Scottish Government declared a Global Climate Emergency in April 2019 and announced that Scotland will be carbon neutral by 2040 and will emit net-zero emissions by 2045. The Scottish Government’s Climate Change Plan update (CCPu), published in December 2020, set out the pathway to meet Scotland’s statutory greenhouse gas emission reduction targets by 2032.

With the transport sector being the largest emitter of greenhouse gases in Scotland, accounting for 29% of all emissions in 2019, and road transport making up the majority of those emissions at 66% (Scottish Greenhouse Gas Statistics), we have committed to decarbonising transport in Scotland. Scotland’s ambitious climate change legislation sets a target date for net zero emissions of all greenhouse gases by 2045, with interim targets of 75% by 2030 and 90% by 2040. In line with this, the National Transport Strategy 2 sets out the strategic vision for Scotland's transport system and the national Mission Zero for transport aims to ensure people and places benefit fairly from the shift to sustainable, zero emission mobility. This underlines our ambition to deliver a healthier, cleaner and greener Scotland for current and future generations.

The Scottish Government commitment is to phase out the need for new petrol and diesel cars and vans by 2030, with an increasing uptake of zero emission vehicles in the period up to 2030 essential to help us meet that goal.

Therefore, the Scottish Government, alongside the UK Government and Welsh Government, are implementing the Vehicle Emissions Trading Schemes Order 2023. The objective of the legislation is to introduce yearly mandated sales targets for new zero emission cars and vans for vehicle manufacturers to meet, ramping up to 80% of new cars, and 70% of new vans, by 2030, and introduce non-zero emissions vehicle (non-ZEV) CO2 emissions regulations for all new non-ZEV cars and vans sold.

This instrument will set up VETS as four separate GB-wide trading schemes that will be operational from 1st January 2024, or as soon as possible thereafter. Two of the schemes apply to cars: the Non-Zero-Emission Car Registration Trading Scheme ("CRTS") and the Non-Zero-Emission Car CO2 Trading Scheme ("CCTS"), and two apply to vans: the Non-Zero-Emission Van Registration Trading Scheme ("VRTS") and the Non-Zero-Emission Van CO2 Trading Scheme ("VCTS").

EU Alignment Consideration

This legislation, while similar to the EU's scheme - Regulation (EU) 2019/631 - is not wholly aligned. Similar to the approach taken to the CCTS and VCTS, the EU scheme focuses on reducing the CO2 emissions of the manufacturers new fleet of cars and vans across a manufacturers EU fleet of vehicles, rather than sales of zero emissions vehicles. However, unlike VETS, the zero emissions vehicle crediting system (the EU equivalent of the CRTS and VRTS) is not a mandated target for manufacturers and is rather an incentive for manufacturers to help them increase their vehicle fleets CO2 emissions target.

Consultation

Between 30th March 2023 and 24th May 2023, the Scottish Government, UK Government, Welsh Government, and Department for Infrastructure (Northern Ireland) ran a public consultation seeking views on "A zero emission vehicle (ZEV) mandate and CO2 emissions regulation for new cars and vans in the UK".

Alongside the consultation, the Scottish Government, UK Government, Welsh Government, and Department for Infrastructure (Northern Ireland) 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 Climate Change Act 2008.

The consultation received over 148 responses, from a range of stakeholders including vehicle manufacturers, charge point operators, and NGOs, with the majority supporting most of the proposals on the design of a ZEV mandate and CO2 emissions standard. A full list of those consulted and the views expressed are contained within the consultation report published on the UK Government website.

The consultation report was published by the Scottish Government, UK Government, Welsh Government, and Department for Infrastructure (Northern Ireland) on Thursday 28 September.

Impact Assessments

The Scottish Government, UK Government, Welsh Government, and Department for Infrastructure (Northern Ireland) undertook a full cost benefit analysis that assessed regulatory, environmental, equality and cost impacts of VETS. In addition, the Scottish Government undertook two partial impact assessments. They are:

- Business and Regulatory Impact Assessment (transport.gov.scot)
- Island Communities Impact Assessment (transport.gov.scot)

The cost benefit analysis is available on the UK Government website. Copies of the two impact assessments are available on the Transport Scotland website.

Financial Effects

A full cost benefit analysis has been completed and is attached. A partial Business and Regulatory Impact Assessment (BRIA) has been completed and is attached.

Scottish Government
Transport Scotland, Low Carbon Economy Directorate

16 October 2023

Annexe B – Other documents

The following documents have been published in relation to the instrument—

- Zero Emission Vehicle Mandate and CO_2 Regulations Joint Government Response Cost Benefit Analysis – October 2023

- UK Draft Explanatory Memorandum

The Scottish Government has also sent the Committee—

- Zero Emissions Vehicle Mandate and non-ZEV Efficiency Requirements Consultation-stage Cost Benefit Analysis – March 2023 (link also included above)

- Reports from the consideration of the instrument in the Senedd—

  - LJC6-31-23 - Paper 5 - Report.pdf (senedd.wales)

  - LJC6-31-23 - Paper 6 - Welsh Government response.pdf (senedd.wales)