

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION  
WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND  
NORTHERN IRELAND PROTOCOL**

**COMMISSION REGULATION (EU) 2023/843 of 8.2.2023 amending Commission Regulation (EU) 2017/1151 as regards the emission type approval procedures for light passenger and commercial vehicles**

**ANNEXES to Commission Regulation (EU) 2023/843 amending Commission Regulation (EU) 2017/1151 as regards the emission type approval procedures for light passenger and commercial vehicles**

Submitted by Department for Transport

20 March 2023

**SUBJECT MATTER**

1. This Explanatory Memorandum sets out the implications to Northern Ireland of EU Commission Regulation 2023/843 which amends Regulation (EU) 2017/1151. Regulation (EU) 2017/1151 sets the detailed technical rules for the approval and on-going compliance testing of light passenger and commercial vehicles regarding Euro 6 emissions, it supplements the Council and Parliament Regulation (EU) 715/2007, which sets the Euro 5 and Euro 6 emissions requirements and the rules regarding access to vehicle repair and maintenance information.
2. The amendments introduce specific requirements for the next step of the Euro 6 emissions stage, known as 'Euro 6e', by amending the testing and approval requirements in light of changes to other related EU legislation and UNECE regulations.
3. Article 1 amends most of the Articles in Regulation (EU) 2017/1151, each of these are set out below.
4. The definitions (Article 2) are amended to align them with those set by the road vehicle approval framework Regulation (EU) 2018/858 and those used in UN Regulation 154 and other substantive amendments made to Regulation (EU) 2017/1151.

5. The requirements for type approval (Article 3) are updated to reflect the application of the rules regarding access to vehicle repair and maintenance information (RMI) set by the road vehicle framework and apply the stricter CO<sub>2</sub> emissions laboratory testing set by UN Regulation 154 and the more stringent real-world testing of NO<sub>x</sub> and particulate emission set by the forthcoming UN Regulation on real driving emissions (RDE).
6. The requirements for the approval of the vehicle's on-board diagnostics (OBD) system (Article 4) are updated in line with those set by UN Regulation 154.
7. The scope of the regulation with regards to the mandatory fitment of on-board fuel consumption monitors (OBFCM) (Article 4a) is extended to include commercial vehicles weighing between 3.5 and 12 tonnes (type approval category N2) that have emissions approvals under this regulation. This was previously only required for passenger cars and vans below 3.5 tonnes.
8. Article 5 is amended to reflect the application of the rules set by the road vehicle framework regarding access to vehicle repair and maintenance information (RMI). Following amendment, this Article now sets only the requirements for approval of a vehicle's emissions. It places a number of obligations on manufacturers, including requiring a declaration as to the conditions under which an auxiliary emission strategy (AES) would be activated to replace the base emissions strategy (BES), to provide a visual indication when the AES is active, and a description of how tampering with the emission control system is prevented.
9. In addition, there is an obligation on the Forum for Exchange of Information on Enforcement (the expert group established by the road vehicle framework to assist the Commission) to compile a list of non-compliant AES and for that list to be published by the Commission. Additionally, manufacturers are required to make information on the performance of the BES and AES employed by the vehicle available to approval authorities, market surveillance authorities, the Commission and other testing services.
10. Furthermore, Article 5 is amended to refer to changes to the CO<sub>2</sub> emission tests for plug-in hybrid electric vehicles (PHEVs). The calculation used to determine CO<sub>2</sub> emissions for these vehicle types will be updated in 2025 to reflect real-world conditions more accurately. It will be updated again in 2027 based upon the collection of real-world data from vehicle OBFCM devices.
11. The administrative provisions regarding applications for type approval (Article 6) and amendments to approvals (Article 7) are updated to reflect the application of the relevant rules set by the road vehicles framework.

12. The rules regarding conformity of production (CoP) (Article 8) are modified to apply the requirements of the road vehicle framework and UN Regulation 154. The in-service conformity (ISC) provisions (Article 9) are amended to apply those set by the road vehicle framework. These changes are to require manufacturers to report any emissions-related warranty repair information to the approval authority and update the ISC tests to include data required by Commission Implementing Regulation (EU) 2022/163, which sets requirements for market surveillance of vehicles, systems, components and separate technical units. In addition, the scope of the obligation to notify the original approval authority of any detected non-compliance is expanded to include other approval authorities, technical services, the Commission, or other third-parties.
13. The requirements for the approval of pollution control devices (Articles 10 and 11) are modified to reflect the application of the rules for RMI and OBD access set by the road vehicle framework and UN Regulation 154.
14. Articles 13 and 14 are deleted as a result of the application of the rules for access to a vehicle's OBD and RMI set by the road vehicle framework and UN Regulation 154.
15. The transitional provisions (Article 15) are updated to allow manufacturers with vehicle types with existing valid approvals to obtain a new emissions approval, at each of the three sub-steps of Euro 6e, by declaring that it complies with the new emissions requirements. This avoids the need to re-test the vehicle.
16. The first stage (6e) applies from September 2023 for new types and all new vehicles from September 2024. Under this stage, real-world testing for NO<sub>x</sub> and particulates becomes stiffer to align with a forthcoming UN Regulation on RDE testing. In addition, the laboratory tests for CO<sub>2</sub> and fuel and energy consumption have been updated and are aligned with UN Regulation 154. The requirement to fit OBFCM devices to N2 vehicles also applies from this point.
17. The second stage (6e-bis) applies from January 2025 for new types and all vehicles from January 2026. The new obligations regarding AES apply from this point, as do the stricter ambient temperature conditions for RDE testing. In addition, the calculation for CO<sub>2</sub> emissions from PHEVs is updated to make figures more accurately represent real-world emissions.
18. The third stage (6e-bis-FCM) applies from January 2027 for new types and all vehicles from January 2028. Under this stage, the calculation for CO<sub>2</sub> emissions from PHEVs will be revised again, based on real-world data from OBFCM devices.

## **SCRUTINY HISTORY**

19. The proposal that resulted in Regulation (EU) 2018/858 was the subject of Explanatory Memorandum 5712/16 dated 25/2/2016. The Commons European Scrutiny Committee reported on four occasions that the proposal raised issues of political importance, completing scrutiny on 13 December 2017 (Report 5, Session 17/19, 37497). The proposal was sifted for examination by the Lords European Union Committee's Internal Market sub-committee (sift 1613) and completed scrutiny on 27 April 2017.

## **MINISTERIAL RESPONSIBILITY**

20. The Secretary of State for Transport.

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

21. The topic of type approval is a reserved matter. The Devolved Administrations, particularly in Northern Ireland, have an interest and have been consulted in the preparation of this EM.

## **LEGAL AND PROCEDURAL ISSUES**

i. Legal Base

Article 288 of the Treaty on the Functioning of the EU and Article 15 of Regulation (EU) 715/2007

ii. Voting Procedure

The Commission was assisted by the Technical Committee - Motor Vehicles in accordance with the rules for the committee procedure set out in Article 15 of Regulation (EU) 715/2007 and the examination procedure in Article 5 of Regulation (EU) 182/2011. The Committee voted in favour of the act at its 96<sup>th</sup> meeting on 5 July 2022.

iii. Timetable for adoption and implementation

The proposal was adopted and published on 8 February 2023; it was published in the Official Journal of the European Union on 2 March 2023 and will enter into force on the 22 March 2023.

## **POLICY IMPLICATIONS**

22. The amendments to Regulation (EU) 2017/1151 represent the introduction of more stringent laboratory and real-world testing of vehicle emissions, increased transparency for market surveillance and reporting of non-conformities, and alignment with updated rules for access to vehicle

information. While there are potential areas of divergence between GB and NI, given that there are several elements to the Euro 6e regime (testing, ISC and access to RMI), and these are set by international UNECE and EU specific regulations, divergence will largely be limited through mitigations that are currently in place or planned by the Government.

23. For instance, the updated testing procedure has been developed at UNECE level, at which the UK has played a key role as part of the Working Party on Pollution and Energy (GRPE). The UK is already a signatory to UN Regulation 154 and, as such, can issue approvals to it and will accept approvals from other contracting parties, including those outside of Europe.
24. The updated requirements for on-road emissions testing are aligned with the forthcoming UN Regulation on RDE, which has also been developed with significant input from UK Officials attending GRPE. The next step for approval of the proposed regulation is voting at the WP.29 meeting in June 2023. As with UN Regulation 154, should the UK become a signatory to the RDE regulation, this would mean there would be no divergence between NI and GB regarding acceptance of products approved to it.
25. Despite this harmonisation at UNECE level, there will be divergence due to the fact that an EU Euro 6e approval cannot be accepted as demonstration of compliance with the current Euro 6d requirements, which apply under the GB approval scheme. To address this, Officials are preparing legislation to amend the GB scheme to make UNECE approvals equivalent to Euro 6e an accepted alternative. This would remove the need for manufacturers with a Euro 6e approval to have to re-test their vehicles to the Euro 6d requirements. Officials expect manufacturers to obtain UNECE approvals and use them to obtain a GB scheme approval, as this route to approval removes the need for costly re-testing, which manufacturers have raised as a potential issue during engagement.
26. The Government intends to make the amendment before the GB scheme becomes mandatory for new types in February 2024, this would be before the point at which manufacturers would have to double test vehicles.
27. The change to the way in which CO<sub>2</sub> figures for PHEVs are calculated is intended to resolve a recognised performance gap between PHEV type-approval figures and real-world CO<sub>2</sub> emissions. The first update takes effect in the EU from 2025 for new vehicle types and is expected to raise the official CO<sub>2</sub> figures of new PHEVs significantly. These changes are also expected to be introduced to UN Regulation 154 later this year. As Euro 6d remains the minimum emission standard in GB, a manufacturer could seek to obtain an approval using the older calculation, which would lead to a divergence in CO<sub>2</sub> emission figures for the same PHEV model between GB and NI. Officials are

investigating options to update the calculation method for PHEV CO<sub>2</sub> figures within the GB scheme ahead of 2025 to avoid divergence and better reflect real-world performance.

28. The changes to the ISC testing regime represent an increase in the level of transparency required from manufacturers and testing and approval authorities. Under certain circumstances a vehicle may employ an AES rather than its default BES, which is likely to result in an increase in emissions. The changes require the manufacturer to indicate when an AES is activated and provide formal documentation to allow approval and surveillance authorities to understand if high emissions during testing are caused by an AES. This aim of this is to lead to greater transparency for testing and market surveillance authorities and better enable the identification of non-conformity and potential illegal emissions defeat devices or strategies. The changes to RMI access align them with those in the road vehicle framework and simplify approvals for manufacturers.
29. The changes to the EU specific requirements regarding ISC and AES information represent potential divergence between GB and NI with regard to the information provided by manufacturers. This divergence will arise where manufacturers choose an approval to Euro 6d under the GB scheme rather than to the UNECE regulations. This will not be resolved in the proposed amendment to accept equivalent UNECE approvals, but Officials are developing a programme of potential legislation to update existing requirements and consideration will be given to amendments to address these areas as part of that process. However, the Government does not expect divergence in these areas to present a significant issue for manufacturers as it does not require double testing in the same way as the emissions requirements.
30. The Government is not aware of any major NI-based manufacturers that produce vehicles in scope of the implementing act so do not expect there to be any significant impact on producers in NI. In addition, until February 2024 any vehicles approved under the EU scheme could also be registered in GB under the Government's provisional approval scheme established at the end of the Transition Period with the EU. As a result, such vehicles could be sold and used in both GB and NI up to that point.
31. There is no impact on NI's participation in the UK's free trade agreements as the automotive elements of such agreements are based on the recognition of international UN Regulations where available. The recognition of approvals to UN Regulations is not affected by this implementing act and, as the UK is signatory to UN Regulation 154 and should we become one to the RDE regulation, manufacturers in NI producing products to those UN Regulations will be unaffected.

32. There have been no discussions with the EU on this amending regulation within the dialogue structures established under the Withdrawal Agreement, but the Government was aware of internal EU discussions to develop the technical requirements for the Euro 6e emission stage.

### **CONSULTATION**

33. The motor vehicle manufacturing industry was consulted by the Commission during the development of this proposal, no impact assessment was prepared.

34. The Devolved Administrations were consulted in the preparation of this EM and no concerns were raised.

### **FINANCIAL IMPLICATIONS**

35. There are no financial implications for the UK.

### **MINISTERIAL NAME AND SIGNATURE**

A handwritten signature in black ink that reads "Jesse Norman". The signature is written in a cursive, flowing style.

**Jesse Norman**  
**Minister of State**  
**Department for Transport**