

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION/DOCUMENTS WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR FRAMEWORK

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ANNEXES 1 to 11

Proposal for a regulation of the European Parliament and of the Council on circularity requirements for vehicle design and on management of end-of-life vehicles, amending Regulations (EU) 2018/858 and 2019/1020 and repealing Directives 2000/53/EC and 2005/64/EC

Submitted by Department for Transport,

11 April 2024

SUBJECT MATTER

1. The proposed regulation aims to repeal and combine the currently separate instruments for the management of end-of-life vehicles and type approval with respect to their reusability, recyclability and recoverability, which require manufacturers to demonstrate compliance with those recyclability requirements at the approval stage, into a single instrument.
2. Its main objective is to establish a closer link between vehicle construction and their end-of-life management, improving circular design to increase the recovery of materials from end-of-life vehicles. It focuses on three main aspects: the recyclability of vehicles, the management of end-of-life vehicles and the export of used vehicles.
3. The type-approval requirements place obligations on manufacturers to use at least 25% of plastic recycled from post-consumer waste including from end-of-life vehicles, restrict the use of lead and other heavy metals, and to not hinder the removal of parts that can be reused. These requirements will apply six years from the date the Regulation enters into force.
4. Manufacturers will be required to prove compliance at the type-approval stage. They will have to provide a circularity strategy setting out the actions it will take to follow-up on their obligations, and provide information on the safe removal and replacement of vehicle parts. These requirements will apply three years after the regulation enters into force.
5. It also establishes a 'circularity vehicle passport', a digital tool designed to improve the provision of information on the safe removal/replacement of vehicle parts. This requirement will apply seven years from the date the regulation comes into force.
6. The regulation will enter into force one year from its publication in the Official Journal of the EU. It takes a phased-in approach to gradually cover more vehicles and disapplies some of the type-approval requirements to certain vehicles. Cars and vans will be included on entry into force of the regulation. Buses, trucks, trailers and some motorcycles will be included five years after the regulation comes into force. These additional vehicles will be exempt from many of the type-

approval requirements with only the requirement to provide information on the safe removal and replacement of the vehicle's parts, components etc at the approval stage applying to them.

7. In addition, all vehicles produced under the small series, multi-stage schemes, and vehicles of historical interest will be exempt from the type-approval requirements. Special purpose vehicles, such as wheelchair accessible vehicles, will also be exempt except for the requirements concerning the use of heavy metals, such as lead.
8. The end-of-life obligations set minimum requirements for the treatment of end-of-life vehicles by the authorised treatment facilities, and seek to prevent the export of unroadworthy second-hand vehicles, which can lead to pollution and road safety risks in third countries.

SCRUTINY HISTORY

9. There has been no previous scrutiny of the legislation relevant to this proposal since the UK's exit from the EU.

MINISTERIAL RESPONSIBILITY

10. The Secretary of State for Transport is responsible for the vehicle type-approval requirements and the Secretary of State for the Environment, Farming and Rural Affairs has responsibility for the end-of-life vehicle requirements.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

11. The topic of type-approval is a reserved matter. The Devolved Governments, particularly in Northern Ireland, have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

i. Legal Base:

12. Articles 114 and 192 of the Treaty of the Functioning of the European Union are the powers used for the type-approval requirements and end-of-life requirements respectively.

ii. Voting Procedure:

13. The proposal is being considered using the EU's ordinary legislative procedure (Co-decision). Voting will be via qualified majority.

iii. Timetable for adoption and implementation:

14. The proposal was adopted by the Commission on 13th July 2023. It is being considered by the European Parliament and the Council using the ordinary legislative procedure. The timetable for progress through the EU's legislative

process is not fixed but officials advise that the Commission is seeking to agree a final proposal in early 2024.

POLICY AND LEGAL IMPLICATIONS

15. The overall aim of this EU proposal is to improve the circularity of road vehicle manufacturing and reduce waste. This proposal broadly aligns with the aims set out for road vehicles in the 2023 DEFRA policy paper “The waste prevention programme for England: Maximising Resources, Minimising Waste” and could help contribute towards efforts in achieving Net Zero by 2050.
16. The Government considers this proposal an attempt to improve the current requirements applicable for vehicles within the type-approval process. It may lead to increased recycling and re-use of materials from end-of-life vehicles, but without further analysis it is not possible to assess its likely impact.
17. In regard to the application of this proposal to Northern Ireland, the EU has not notified the UK of regarding its intention on application of this proposal to the Windsor Framework, so it is uncertain which elements it will seek to apply. EU legislation concerning the treatment of end-of-life vehicles is not currently included under the Windsor Framework, however type-approval legislation is and so we have further considered the potential policy and legal implications of the type approval changes below.
18. The type-approval proposal currently contains exemptions for low volume and multi-stage manufacturers, and officials are not aware of any major manufacturers based in NI that produce vehicles in scope of the Regulation. Officials expect small manufacturers in Northern Ireland, such as Wrightbus, to be unaffected due to the exemption for vehicles produced under the small series scheme. The local manufacturing industry is therefore unlikely to be affected by this proposal. In addition, the UKNI type-approval scheme will apply under the EU Regulation, which enables access to the GB market and is available to manufacturers if they wish to use it. In any event unfettered access, which is of course unaffected by the proposals, would enable access to the GB market for NI based manufacturers and the movement of used vehicles between GB and NI would be unaffected. As a result, we do not expect there to be any effect on producers in NI, but the Government will continue to engage with industry as the proposal develops.
19. In summary, none of the measures in question will affect the movement or sale of vehicles in Northern Ireland. A manufacturer will still be able to obtain a single UKNI approval for the whole of the UK. UKNI approval will continue to be sufficient to sell into both the NI and GB markets, and manufacturers who hold EU type approval will also continue to be able to sell into the NI market using that approval.
20. The UK Government will continue to monitor changes to recyclability requirements under the EU scheme, with a view to considering whether amendment to the GB scheme is required. Due to the close links between the type-approval and end of life requirements, consideration of amending the GB type-approval scheme to adopt similar type- approval requirements in Great Britain will be informed by any future consultation on the end-of-life vehicles regulatory regime led by DEFRA.

21. We are not aware of any implications from this proposal with regards to Northern Ireland's participation in the UK's Free Trade Agreements or with its participation in UK Common Frameworks.
22. Officials have had initial engagement with the EU on this proposal via the Joint Consultative Working Group under the Windsor Framework. They will continue to monitor the proposal as it develops.
23. There are no legal implications arising from this proposal.

CONSULTATION

24. The Devolved Governments, particularly in Northern Ireland, have been consulted during the production of this explanatory memorandum. The automotive industry was consulted by the Commission during the development of this proposal, and an impact assessment was prepared by the Commission.

FINANCIAL IMPLICATIONS

25. There are no financial implications for the UK.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in black ink that reads "Anthony Browne". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Anthony Browne MP
Parliamentary Under Secretary of State
Department for Transport