

Government Response: *The Vehicle Emissions Trading Schemes Order 2023*

The Vehicle Emissions Trading Schemes Order (“the Order”) is a GB-wide Order which has been drafted by the UK Government with input from the Welsh and Scottish Governments. The UK Government have therefore provided the following response to the Legislation, Justice and Constitution Committee report dated 30 October 2023.

Technical Scrutiny point 2:

The Committee is correct that these terms are only defined for the purposes of Chapters 1 and 3 of Part 3 of the Order, and that it would have been preferable to define them for the purposes of Part 4 also. However, the UK Government does not consider any doubt could arise as to what is meant by these terms in the context of article 77, which is about the information that will be provided to participants in the trading schemes about their activity in each of the schemes. The administrator of the schemes (the Secretary of State for Transport) will be under an obligation to prepare and provide the information under article 77 and will be well aware that banked CRTS and VRTS allowances take their meaning from the relevant Chapters of Part 3 of the Order. The UK Government considers that scheme guidance can also make this clear for scheme participants.

Technical Scrutiny point 3:

The Legislation (Wales) Act 2019 does not apply to the Order (see section 3 of that Act). The Interpretation Act 1978 does apply to the Order. Section 11 of the Interpretation Act 1978 provides that where an Act confers power to make subordinate legislation (which includes Orders in Council -see section 21), expressions used in that legislation have, unless the contrary intention appears, the meaning which they bear in the Act. The UK Government does not therefore usually repeat such definitions within the text of statutory instruments and would risk criticism from the UK Parliament Joint Committee on Statutory Instruments if it did.

Technical Scrutiny point 4:

The Committee is correct on both counts. However, to the extent that the amendments purported to be made by article 106(16)(f) would be of no effect, a continued reference in point 1.2.4 in Part A of Annex 3 to Regulation (EU) 2019/631 to both the domestic and EU versions of Annex XXI to Regulation (EU) 2017/1151 would not be problematic. This is because point 1 in Part A of Annex 3 deals with detailed data to be recorded and reported about NI light commercial vehicles. Point 1.2.4 deals with the reporting of CO₂ emissions of certain base vehicles, which are to be calculated using the same method as applied for the UK(NI) or EU type-approval, subject to certain modifications. As UK(NI) and EU type-approval would require use

of the EU version of Annex XXI to Regulation (EU) 2017/1151, there can be no doubt that it is the EU regime on type-approval which is the relevant one for the purposes of this provision.

Technical Scrutiny point 5:

The Committee is correct, there are two references to "light commercial vehicle" in point 2 in Part A of Annex 3 to Regulation (EU) 2019/631, and both concern NI light commercial vehicles. However, point 2 simply includes supplementary material about the information which is referred to in point 1; that is the information which is to be gathered about NI light commercial vehicles. It states where the information is to be taken from and which mass is relevant. There is therefore no doubt that the light commercial vehicles referred to in point 2 are those NI light commercial vehicles which are referred to in point 1.