



STATUTORY INSTRUMENTS.

S.I. No. 381 of 2021

EUROPEAN COMMUNITIES (CLEAN AND ENERGY-EFFICIENT ROAD
TRANSPORT VEHICLES) (AMENDMENT) REGULATIONS 2021

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I, EAMON RYAN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purposes of giving effect to Directive 2019/1161/EU of the European Parliament and of the Council of 20 June 2019¹, hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the European Communities (Clean and Energy Efficient Road Transport Vehicles) (Amendment) Regulations 2021.

(2) These Regulations come into operation on 2 August 2021.

(3) The European Communities (Clean and Energy Efficient Road Transport Vehicles) Regulations 2011 (S.I. No. 339 of 2011) and these Regulations may be cited together as European Communities (Clean and Energy-Efficient Road Transport Vehicles) Regulations 2011 and 2021.

Interpretation

2. (1) In these Regulations –

“Principal Regulations” means the European Communities (Clean and Energy Efficient Road Transport Vehicles) Regulations 2011 (S.I. No. 339 of 2011).

(2) A word or expression which is used in these Regulations and is also used in Directive 2019/1161/EU of the European Parliament and of the Council of 20 June 2019 has, unless the context otherwise requires, the same meaning in these Regulations as it has in that Directive.

(3) A reference to an Article which is not otherwise identified is a reference to an Article of the Directive.

Amendment of Principal Regulations

3. The Principal Regulations are amended -

(a) in Regulation 2,

(i) “‘clean vehicle’ means:

(a) a vehicle of category M1, M2 or N1 with a maximum tail-pipe emission expressed in CO₂ g/km and real driving pollutant emissions below a

¹ OJ No. L 188, 12.7.2019, p. 116–130

percentage of the applicable emission limits as set out in Table 2 of the Annex of the Directive; or

(b) a vehicle of category M3, N2 or N3 using alternative fuels as defined in the European Union (Deployment of Alternative Fuels Infrastructure) Regulations 2018 (S.I. No. 414 of 2018), excluding fuels produced from high indirect land-use change-risk feed stock for which a significant expansion of the production area into land with high-carbon stock is observed in accordance with Article 26 of Directive (EU) 2018/2001 of the European Parliament and of the Council².

(c) Where a vehicle, referred to in paragraph (b), uses liquid biofuels, synthetic or paraffinic fuels, those fuels shall not be blended with conventional fossil fuels;”;

(ii) by the substitution of the following for the definition of “contracting authority”:

“ ‘contracting authorities’ has the same meaning as it has in Regulation 4 of the European Union (Award of Contracts by Utility Undertakings) Regulations 2016 (S.I. No. 286 of 2016);”;

(iii) by the substitution of the following for the definition of “contracting entity”:

“ ‘contracting entity’ has the same meaning as it has in Regulation 5 (1) of the European Union (Award of Public Authority Contracts) Regulations 2016 (S.I. No. 284 of 2016);”;

(iv) by the substitution of the following for the definition of “Directive”:

“ ‘Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean road transport vehicles in support of low-emission mobility;”;

(v) by the insertion of the following definition:

“‘Minister’ means the Minister for Transport;”;

(vi) the definition of “operator” is deleted;

(vii) by the substitution of the following for the definition of “road transport vehicle”:

“ ‘road transport vehicle’ means a vehicle of category M or N, as set out in points (a) and (b) of Article 4(1) of Regulation (EU) 2018/858³;”;

² OJ L 328, 21.12.2018, p. 82–209

³ O.J. No. L163, 26.05.2020, p.1–218

(viii) by the insertion of the following for the definition:

“‘zero-emission heavy duty vehicle’ means a vehicle of category M3, N2 or N3 using alternative fuels as defined in the European Union (Deployment of Alternative Fuels Infrastructure) Regulations 2018 (S.I. No.414 of 2018) without an internal combustion engine, or with an internal combustion engine that emits less than 1 g CO₂/kWh as measured in accordance with Regulation (EC) No 595/2009 of the European Parliament and of the Council⁴ and its implementing measures, or that emits less than 1 g CO₂/km as measured in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council⁵ and its implementing measures.”.

(b) by the substitution of the following for Regulation 3:

“3 (1). These Regulations shall apply to procurement through:

(a) contracts for the purchase, lease, rent or hire-purchase of road transport vehicles awarded by contracting authorities or contracting entities in so far as they are under an obligation to apply the procurement procedures set out in the European Union (Award of Public Authority Contracts) Regulations 2016 and the European Union (Award of Contracts by Utility Undertakings) Regulations 2016;

(b) public service contracts within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council⁶ having as their subject matter the provision of passenger road transport services in excess of a threshold which shall be defined by Member States not exceeding the applicable threshold value set in Article 5(4) of that Regulation; or

(c) service contracts set out in Table 1 of the Annex to Directive in so far as the contracting authorities or contracting entities are under an obligation to apply the procurement procedures set out in the European Union (Award of Public

⁴ OJ L 188, 18.7.2009, p. 1–13

⁵ OJ L 171, 29.6.2007, p. 1–16

⁶ OJ L 315, 3.12.2007, p. 1–13

Authority Contracts) Regulations 2016 and the European Union (Award of Contracts by Utility Undertakings) Regulations 2016.

(2) These Regulations shall apply only to such contracts for which the call for competition has been sent after 2 August 2021 or, in cases where a call for competition is not foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after that date.

(3) These Regulations shall not apply to:

(a) vehicles referred to in points (a), (b) and (c) of Article 2(2) and in point (c) of Article 2(3) of Regulation (EU) 2018/858⁷;

(b) vehicles of category M3 other than Class I and Class A vehicles as defined in points (2) and (3) of Article 3 of Regulation (EC) No 661/2009 of the European Parliament and of the Council⁸.”.

(c) by the substitution of the following for Regulation 4:

“4. Contracting authorities and contracting entities shall ensure that the procurement of vehicles and services referred to in Regulation 3 complies with the minimum procurement targets for clean light-duty vehicles set out in Table 3 and for clean heavy-duty vehicles set out in Table 4 of the Annex of the Directive.”

(d) by the insertion of the following after Regulation 4:

“Minimum procurement targets

5. Minimum procurement targets are expressed as minimum percentages of clean vehicles in the total number of road transport vehicles covered by the aggregate of all contracts referred to in Article 3, awarded between 2 August 2021 and 31 December 2025, for the first reference period, and between 1 January 2026 and 31 December 2030, for the second reference period.

Application of targets

6. Where new targets for the period after 1 January 2030 are not adopted, the targets set for the second reference period shall continue to apply, and shall

⁷ OJ L 151, 14.6.2018, p. 1–218

⁸ OJ L 200, 31.7.2009, p. 1–24

be calculated in accordance with Regulations 3 and 4, over subsequent five-year periods.

Exemptions

7. Vehicles referred to in point (d) of Article 2(2) and in points (a) and (b) of Article 2(3) of Regulation (EU) 2018/858 of the European Parliament and of the Council⁹ and in points 5.2. to 5.5. and point 5.7. of Part A of Annex I to that Regulation are exempt from the requirements of this Directive.

Reporting of relevant procurements

8. Contracting authorities and contracting entities are required to report relevant procurements annually through the Sustainable Energy Authority of Ireland's Monitoring and Reporting System in accordance with Regulation 5 (3) of the European Union (Energy Efficiency Directive) Regulations 2016 (S.I. No.426 of 2014).

Reporting and review

9. (1) On or before 2 August 2022 the Minister shall inform the Commission of the measures taken to implement Directive and the intentions regarding future implementation activities, including the timing and possible effort-sharing between different levels of government.

(2) On or before 18 April 2026, and every three years thereafter, the Minister shall submit to the Commission a report on the implementation of Directive.

(3) Those reports shall accompany the reports provided for in Regulation 84 (8) of the European Union (Award of Public Authority Contracts) Regulations 2016 and Regulation 109 (3) of the European Union (Award of Contracts by Utility Undertakings) Regulations 2016, and shall contain information on the measures taken to implement this Directive and on future implementation activities.

(4) The reports (referred to in paragraph (2)) shall include the number and the categories of vehicles covered by the contracts referred to in Regulation 3 (1).”.

⁹ OJ L 151, 14.6.2018, p. 1–218



GIVEN under my Official Seal,
22 July, 2021.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

(This note isn't part of the instrument and doesn't purport to be a legal interpretation)

The revised ‘*Clean Vehicles Directive*’ (Directive 2019/1161/EU), amending Directive 2009/33/EC, promotes clean mobility solutions in public procurement tenders, to boost demand and further deployment of low- and zero-emission vehicles. The new Directive defines "clean vehicles" and sets national targets for their public procurement.

The Directive applies to cars, vans, trucks and buses (excluding coaches), when they are procured through:

- Purchase, lease, rent or hire-purchase contracts under obligations by EU public procurement rules (Dir. 2014/24/EU and 2014/25/EU)
- Public service contracts for the provision of passenger road transport services (Reg. 1370/2007)
- Services contracts for public road transport services, special-purpose road passenger-transport services, non-scheduled passenger transport, refuse collection services, mail and parcel transport and delivery. (Annex I of the Directive)

The Directive will only apply to contracts whose awarding procedure starts after 2 August 2021 (the end date for transposition).

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