



An Roinn Iompair
Department of Transport

Revised Clean Vehicles Directive Options Paper Directive (EU) 2019/1611

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1. Background

The 'Clean Vehicles Directive' (Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles) sets out minimum targets for 'clean' (low- and zero-emission) vehicles in public procurements. The Directive entered into force on 14 August 2019 and must be transposed into Irish law by the Minister for Transport before 1 August 2021.

The Department of Transport conducted two consultation processes with industry and the public and has prepared a Regulatory Impact Assessment (RIA) to explore the options for transposition and to provide a detailed and systematic appraisal of the potential impacts of this regulation. The consultations aimed to consider the policy options for transposing the Directive into Irish law; to set out the various means through which the Directive may be transposed, and to offer stakeholders the opportunity to reflect on key questions relating to how the Directive will be transposed.

The purpose of the proposed legislation is to provide for the mandatory transposition of [Directive \(EU\) 1161/2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles](#) (the 'Clean Vehicles Directive') into Irish law by Statutory Instrument (S.I.) under the *European Communities Act 1972*. In so doing, the current regulations for 'clean' vehicle procurement set out in [S.I. 339 of 2011](#) will be amended and replaced by new legislation.

This new legislation will:

1. provide for the setting of binding minimum targets for the share of 'clean' vehicles, as defined in the Directive, in procurements undertaken by public sector bodies over the relevant service contract value thresholds;
2. allow for the expansion of the scope of the Regulations to apply to vehicle purchase, lease, hire-purchase and rental contracts, as well as vehicles supplied to carry out works under certain types of service contract;

3. provide for the repeal of the common rules for calculating the lifetime costs linked to the operation of vehicles set out in S.I. No. 339 of 2011;
4. provide for the granting of exemptions to certain types of vehicles;
5. allow for the identification of an appropriate monitoring body for public procurements of 'clean' vehicles; and
6. establish the reporting obligations upon public sector bodies to the appropriate monitoring body; and the reporting obligations upon the State to European Commission.

In drafting the legislation, the Department was faced with several choices which were outlined in the public consultation. These options were:

Option	Description	Preferred Option
1	Do Nothing/No Policy Change	This option is not recommended
2	Transpose the Directive by Statutory Instrument under the <i>European Communities Act 1972</i>	This is the Preferred Option
2a	Application of Minimum Targets over the Aggregate of Relevant Procurements	This is the Preferred Option
2b	Application of Minimum Targets to each Relevant Procurement	This option is not recommended
2c	Distribute Obligation Equally Between all Public Bodies	This is the Preferred Option
2d	Distribute Obligation on the basis of Predetermined Criteria	This option is not recommended

2e	Implement the Optional Exemptions	This is the Preferred Option
2f	Do Not Implement the Optional Exemptions	This option is not recommended
2g	Align Clean Vehicles Directive Reporting with Existing Public Sector Reporting Requirements	This is the Preferred Option
2h	Establishment of a Dedicated Reporting Mechanism for Clean Vehicles Directive Reporting	This option is not recommended

2. Consultation process

The Department carried out two consultation processes, a targeted stakeholder consultation and a wider public consultation. In total, the Department received twenty-five responses to both consultations, almost entirely from state agencies, detailing how the Directive would impact them. The first consultation, the targeted stakeholder consultation, was carried out in March 2020 and for this consultation, the Department approached the State's largest transport energy users as reported to the Sustainable Energy Authority of Ireland (SEAI). Stakeholders in this phase of the consultation included the NTA, ESB, An Garda Síochána, local authorities, the Department of Education (school services) and others. It was reasoned that as the state actors with the largest fleets they would be most impacted by the Directive and best placed to give the Department a clear picture of the impacts that this Directive would have.

The second consultation was open to the public so that they would have the opportunity to voice their opinion on the Directive. This process only returned six responses which were nonetheless useful. Stakeholders such as Carma Green EV and the Irish Electric Vehicles Owners Association responded to the consultation and provided useful information.

In addition to these two formal consultations, the Department participated in several SEAI workshops at which we presented the requirements of the Directive and discussed these with stakeholders who will be affected by it.

3. Outcomes of the consultation process

The targeted stakeholder consultation provided the Department with greater insight into the fleet profiles of public bodies. Overall, the responses were positive as most public bodies had already begun to take positive steps in the transition towards alternative fuels with quite a number already having reported purchasing CVD compliant vehicles. A common theme, however, was that while many signalled their intentions to buy alternatively fuelled vehicles, they didn't see it as a viable option at scale due to cost, range concerns and availability of vehicles. Some respondents highlighted their need for custom or bespoke vehicles which they didn't feel were suitable for alternative fuels. For example, one respondent highlighted that some of their vans have cherry-pickers for repair works and that the battery of the van wouldn't be adequate for driving the distances they needed and powering the cherry-picker. Safety concerns were also expressed concerning vehicles responding to situations in adverse weather conditions as these required extra modifications to vehicles, modifications that the respondents felt wouldn't be suitable for an electric battery.

The issue of charging and the logistics surrounding this was mentioned in both consultations. To date, public bodies had a simple process whereby staff refuelled at petrol stations using a company card. Going forward most public bodies will have to adjust to using depot, public and home charging. Cork City Council highlighted the need to work with staff for the installation of home charging infrastructure in employee's private residences. Additionally, while it isn't an issue for the CVD, it was reported that the use of home charging will cause GDPR issues for some. The logistics and cost of charger installation were also cited as major stumbling blocks for public bodies. Currently, public bodies are unable to apply for the SEAI charger installation grants. There is also a lack of knowledge around how to upgrade infrastructure required for depot charging i.e. will their current connection to the electricity grid suffice and how do you future proof any upgrades to ensure that they are adequate in the longer term.

Total cost of ownership (TCO) was cited strongly as both positive and negative by public bodies. This highlights the difficulties in costing the Directive. One public body was adamant that over the lifetime of their EVs that they would be far cheaper than their ICE equivalents while another body estimated that a move to EVs would double their costs.

It must be noted that most of the respondents to the consultation are the State's largest fleet owners and as such will have much more difficulty in complying with the Directive. The vast majority of public bodies don't have very large fleets and as was evidenced by some replies won't have too many, or any, issues complying with this Directive. Additionally, while some public bodies might have to drive long distances (200km or more) in emergencies, this isn't seen as an everyday issue and most public bodies shouldn't be driving these distances daily.

Throughout the process, the Department liaised regularly with the Office of Government Procurement (OGP) to ensure our work aligned. The OGP have a framework contract in place for both light-duty vehicles (LDVs) and commercial vans. Currently, the two options in the LDV category are the Hyundai Ioniq and the Hyundai Kona. The Ioniq has a range of 311km and a price (excluding VAT) of €32,375 while the Kona has a range of 449km and a price (excluding VAT) of €36,173. For commercial vans, the OGP also provide two options in the Nissan ENV200 and the Peugeot e-Expert. The ENV200 has a range of 200km and a price (excluding VAT) of €29,811 while the e-Expert has a range of 312km and a price (excluding VAT) of €34,727. In a business as usual scenario, public bodies shouldn't be driving their vehicles more than the stated range limits on these vehicles.

4. Transposition options

4.1. Option 1 vs 2

Option	Description	Preferred Option
1	Do Nothing/No Policy Change	This option is not recommended
2	Transpose the Directive by Statutory Instrument under the <i>European Communities Act 1972</i>	This is the Preferred Option

The Department is transposing the Directive by way of Statutory Instrument under the *European Communities Act 1972*.

4.2. Option 2a vs 2b

Option	Description	Preferred Option
2a	Application of Minimum Targets over the Aggregate of Relevant Procurements	This is the Preferred Option
2b	Application of Minimum Targets to each Relevant Procurement	This option is not recommended

The stated preference by public bodies was to be able to apply the minimum targets over the aggregate of relevant procurements. This is deemed to be the most appropriate way forward for public bodies as it allows them flexibility in when and how they procure their alternatively fuelled vehicles. There is a fear that the market won't be able to meet demand immediately, allowing them this flexibility means that they can meet the requirements with later procurements when it is predicted that the market will be more developed. There is a risk that if too many bodies are looking to procure vehicles at the same time that it may cause a constraint on the market but this is offset by the possibility that significantly more are at risk of failing to meet compliance in the early years of the Directive if they are required to meet the targets of each relevant procurement.

4.3. Options 2c vs 2d

Option	Description	Preferred Option
2c	Distribute Obligation Equally Between all Public Bodies	This is the Preferred Option
2d	Distribute Obligation on the basis of Predetermined Criteria	This option is not recommended

The Department was presented with an option of placing a greater onus on certain public bodies. For example, it can be safely assumed that An Garda Síochána and the National

Transport Authority (NTA) have the two of the biggest fleets in Ireland with 2,794 and 1,322 vehicles respectively. Placing a greater onus on these two bodies might be deemed to have a greater effect than it would have on smaller bodies. However, due to the nature of the activities carried out by An Garda Síochána a large number of the vehicles in their fleet will likely be exempt from this Directive. Additionally, the NTA has already committed to purchasing only low or zero-emission buses from now on as evidenced by its recent order of diesel-electric hybrid buses, its procurement framework for single-deck electric buses and its procurement framework for 800 double-deck electric buses. While this means that they will easily meet any increased obligations, it also means that this Directive will have greater effect if the targets are equally distributed as these orders will go ahead regardless.

4.4. Options 2e vs 2f

Option	Description	Preferred Option
2e	Implement the Optional Exemptions	This is the Preferred Option
2f	Do Not Implement the Optional Exemptions	This option is not recommended

During the consultation, most respondents, whether affected by the exemptions or not, felt that the optional exemptions should be implemented. The following vehicles are included in the Directive, but Ireland may decide to exempt them when the Directive is transposed:

- Special vehicles for use by armed services, civil protection, fire services and police forces;
- Special vehicles for use on construction sites, quarries, ports, airports; and
- Armoured vehicles, ambulances, hearses, wheelchair accessible cars and mobile cranes.

This option was inserted by the Commission in recognition of the relative immaturity of the market for alternatively fuelled options for these vehicles and the potential, negative consequences of these vehicles experiencing difficulties while in use.

Valuable information was provided by Carma Green EV on the options available for some of the above exemptions. Additional options are beginning to appear as can be seen with the Ulemco fuel cell ambulances in London¹. However, these options don't appear to be available at the scale needed nor is the Irish market yet ready for a mass rollout of hydrogen-fuelled vehicles. Currently, while hydrogen is available to purchase, dedicated hydrogen for transport refuelling equipment isn't present in Ireland. Several green hydrogen production projects are ongoing and the Alternative Fuels Infrastructure Regulation will provide for compulsory infrastructure targets. However, it will still be a few years before the rollout is sufficient to cover the entire market. Wheelchair accessible vehicles (WAVs) are another vehicle type for which an optional exemption is proposed. The Department currently has very generous supports for WAV EV taxis and there are more readily available options in this category. However, in discussions with the Sustainable Energy Authority of Ireland (SEAI) and the Department of Education and Skills (DES), it was highlighted that both school services and hospital services frequently enter into service contracts with WAV taxi services to provide transport for students and patients with disabilities. There is a concern that due to the current economic difficulties faced by taxi drivers that implementing obligations on these services might negatively affect them.

Initially, it was considered to implement optional exemptions in Phase 1 (02 August 2021 – 31 December 2025) and to carry out a review in 2025 to analyse market conditions as it is expected that progress will develop quickly for all of these categories. The market may have developed sufficiently for these vehicles to allow for their inclusion for Period 2 (01 January 2026 – 31 December 2030) of this Directive. However, in drafting the S.I. an issue arose around the transposition of optional clauses via the European Communities Act 1972. The legal advice the Department received was that the optional clause should be implemented in full. As such, the Department chose to implement the optional exemptions throughout the entirety of the lifetime of the S.I. Given that the exemptions will be implemented in full, Government will have to use other avenues to encourage the transition to cleaner vehicles in these categories.

¹ <https://www.autocar.co.uk/car-news/new-cars/ulemco-reveals-first-hydrogen-fuelled-ambulance>

4.5. Options 2g vs 2h

Option	Description	Preferred Option
2g	Align Clean Vehicles Directive Reporting with Existing Public Sector Reporting Requirements	This is the Preferred Option
2h	Establishment of a Dedicated Reporting Mechanism for Clean Vehicles Directive Reporting	This option is not recommended

It is proposed to align the CVD reporting with the existing public sector reporting requirements. Detailed discussions have already taken place between the Department and SEAI as to how this will work and an agreement has been reached which has allowed SEAI to include the specifications for CVD reporting into the recent tender for an updated SEAI Monitoring and Reporting System. The reason for this is that it seemed like the most efficient and least burdensome way forward. Public bodies are already familiar with the system which will reduce confusion and the system already exists, removing the need to build a new system. This was also identified as the preferred method by stakeholders throughout the consultation process.



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