

# Clean Vehicles Directive

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## Public Consultation

19/10/2020

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## Introduction to Consultation

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 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 aim of this consultation is 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.

These changes are expected to have significant and far-reaching impacts on public procurement and, consequently, the Department encourages all public sector bodies to become acquainted with the text of the Directive and its potential specific implications for their organisation. A copy is available for consultation on the EUR-Lex website:

<http://data.europa.eu/eli/dir/2019/1161/oj>.

Respondents may make their submissions by answering the questions posed on behalf of their organisations and returning the completed consultation paper to [ClimateChangeUnit@dtas.gov.ie](mailto:ClimateChangeUnit@dtas.gov.ie) by 31 December 2020. We request that all submissions be made by email as staff are currently working from home.

Before making a submission, all respondents should first be aware of the Department's data protection policy and our responsibilities under Freedom of Information (FOI) and Access to Information on the Environment (AIE) legislation. Respondents should further note that all submissions will be published to [www.gov.ie/transport](http://www.gov.ie/transport) and should clearly indicate in their response if any specific supporting information provided is to be considered commercially sensitive.

## Background to the Directive

### 1. What is different about the recast Directive?

- The new Directive defines "clean vehicles" and sets binding national targets for their public procurement. It applies to different means of public procurement, including purchase, lease, rent and relevant services contracts.
- This means that Ireland now has to legally ensure that a proportion of public vehicle procurement is low- or zero-emission. Regardless of national green procurement policy ambition, which may be more ambitious, the targets set out in the Directive are the minimum.
- A new definition of 'clean' vehicles is provided. The methodology used in Directive 2009/33/EC (and subsequently in S.I. 339 of 2011) to define a 'clean' vehicle is being revoked.
- **All public sector bodies will be compelled to apply the Directive** if the vehicle procurements in question are within its scope and to report their vehicle procurements to the State to facilitate national-level reporting to the EU.

### 2. Which vehicles are concerned?

- The Directive applies to cars, vans, trucks and buses (excluding coaches) with values **over relevant procurement thresholds**, 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)
- When contracting authorities or contracting entities procure vehicles through purchase, lease, or hire-purchase contracts within the scope of the Directive, all these vehicles count for the purpose of the national minimum target. In the case of public services contracts, or contracts for services, **the number of vehicles to be used for the provision of those services are counted**.
- The Directive will only apply to contracts whose awarding procedure starts **after 2 August 2021** (the end date for transposition).

**Table 1: Service Contracts to which the Directive applies**

CPV Code	Description
60112000-6	Public road transport services
60130000-8	Special-purpose road passenger-transport services
60140000-1	Non-scheduled passenger transport services
90511000-2	Refuse collection services
60160000-7	Mail transport by road
60161000-4	Parcel transport services
64121100-1	Mail delivery services
64121200-2	Parcel delivery services

### 3. What are the procurement thresholds?

- Public sector bodies will be compelled to apply the Directive to vehicle procurements and certain service contracts where the value is in excess of certain monetary thresholds.
- The relevant thresholds for public sector bodies are aligned to the Regulations amending the EU thresholds for the Directives 2014/24/EU and 2014/25/EU. These thresholds are occasionally revised and published by the EU Commission.
- The thresholds (exclusive of VAT) above which advertising of contracts in the Official Journal of the EU (OJEU) is obligatory, are those above which the provisions of the Directive must be applied for public sector bodies. Therefore, different thresholds apply for public sector bodies considered utilities.
- **The current relevant OJEU advertising thresholds, with effect from 1st January 2020, are as follows:**
  - **Supplies and Services**
    - €139,000 – Government Departments and Offices
    - €214,000 – Local and Regional Authorities and public bodies outside the Utilities sector
    - €750,000 – light touch regime – social and other specific services listed in Annex XIV of the EU Directive 2014/24/EU.
  - **Utilities** (for entities in Utilities sector covered by GPA)
    - €428,000 - Supplies and Services
- **A threshold of €1,000,000 is set for public service contracts for passenger road transport services** (public service obligation transport) in line with Regulation (EC) 1370/2007. PSO procurements in excess of this threshold must apply the provisions of the Directive.

#### 4. What is a "clean vehicle"?

- The revised Directive defines a "clean vehicle" as follows:
  - **Clean light-duty vehicle:** any car or van meeting the following emission thresholds:

*Table 2: 'Clean' light-duty vehicle definition 2021 to 2025; and 2026 to 2030*

Vehicle Categories	Until 31 December 2025		From 1 January 2026	
	CO <sub>2</sub> g/km	RDE Air Pollutant Emissions as a % of emissions limits	CO <sub>2</sub> g/km	RDE Air Pollutant Emissions as a % of emissions limits
M1	50	80%	0	N.A.
M2	50	80%	0	N.A.
N1	50	80%	0	N.A.

- **Clean heavy-duty vehicle:** any truck or bus using one of the following alternative fuels: hydrogen; battery electric (including plug-in hybrids); natural gas (both CNG and LNG, including biomethane); liquid biofuels; synthetic and paraffinic fuels; LPG.
- Conventional hybrid vehicles (without the capacity to recharge externally) are not considered 'clean' vehicles.
- Where liquid biofuels, synthetic and paraffinic fuels are used, they must be used unblended i.e. in concentrations of 100% without any fossil fuel, and be produced from feedstocks with low indirect land-use change (ILUC) emissions.
- This means that biofuels such as biodiesel produced from palm oil, which has very high ILUC emissions, is not considered clean.
- The Directive also sets a separate definition for "**zero-emission heavy-duty vehicles (HDVs)**", as a sub-category of clean heavy-duty vehicles. Zero-emission HDVs are trucks and buses without an internal combustion engine, or with an internal combustion engine that emits less than 1g CO<sub>2</sub>/kWh as measured in accordance with Regulation (EC) No 595/2009, or that emits less than 1g CO<sub>2</sub>/km as measured in accordance with Regulation (EC) No 715/2007.
- Retrofitted vehicles may also be counted towards minimum targets if desired.

## 5. National targets for procuring clean vehicles

- The national targets are defined as a minimum percentage of clean vehicles in the aggregated public procurement across a Member State. This means that Ireland has a level of flexibility in how the effort is distributed across different contracting authorities and contracting entities.
- Different targets have been set in the Directive for light-duty vehicles and for heavy-duty vehicles as market development has advanced more for certain vehicle types.
- Sub-targets apply for public bus procurement. Ireland has to meet at least half of the procurement target for clean buses in each period through the procurement of zero-emission buses, but this can be reduced if over 80% of the buses procured are for the double-deck fleet (reflecting market immaturity for double-deck models by comparison with single-deck buses).

**Table 3: Minimum targets for light-duty vehicles and heavy-duty vehicles from 2021 to 2025; and from 2026 to 2030**

LDVs Targets to 2025	LDVs Targets 2026- 2030	HDVs Targets to 2025		HDVs Targets 2026- 2030	
38.5%	38.5%	Trucks	Buses	Trucks	Buses
		10%	45%*	15%	65%*

## 6. What types of vehicle procurements are exempt?

The following vehicles are excluded from the Directive:

- Coaches (vehicles of category M3 other than Class I & Class A);
- Agricultural and forestry vehicles;
- Two- and three-wheeled vehicles and quadricycles (cat. L);
- Track-laying vehicles; and
- Mobile machinery.

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.



## **7. What reporting obligations will public sector bodies have?**

- Ireland will be required to report to the European Commission on progress at a national level towards implementation of the Directive. To facilitate this, public sector bodies will have to begin reporting procurement information regarding vehicles to the State.
- The first national report must be sent to the European Commission by 1 April 2026 and cover procurement information from 2021 to 2025. National reports are due every 5 years thereafter.

## Key Issues for Consideration

Table 4: Summary of Transposition Options in the RIA

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>	<b>This is the Preferred Option</b>
2a	Application of Minimum Targets over the Aggregate of Relevant Procurements	<b>This is the Preferred Option</b>
2b	Application of Minimum Targets to each Relevant Procurement	This option is not recommended
2c	Distribute Obligation Equally Between all Public Bodies	<b>This is the Preferred Option</b>
2d	Distribute Obligation on the basis of Predetermined Criteria	This option is not recommended
2e	Implement the Optional Exemptions	<b>This is the Preferred Option</b>
2f	Do Not Implement the Optional Exemptions	This option is not recommended
2g	Align Clean Vehicles Directive Reporting with Existing Public Sector Reporting Requirements	<b>This is the Preferred Option</b>
2h	Establishment of a Dedicated Reporting Mechanism for Clean Vehicles Directive Reporting	This option is not recommended

## Financial Impacts

It is envisaged that this Directive will impose significant costs on the State as it will be charged with taking the lead in converting to zero-emission technologies. The exact cost to

the State isn't yet quantifiable as we don't have a complete inventory of how many vehicles the State owns or leases. It is recognized that some public bodies will be disproportionately affected by this Directive due to the nature of the work they carry out while some may struggle to meet the requirements due to budget constraints. Nevertheless, there is an onus on the State to meet the requirements set within this Directive and to provide leadership in the switch to zero-emission technologies.

#### Questions

- Can you outline expected changes to procurement practices for your organisation?
- Can your organisation achieve cost-effective implementation of the Directive? Can 'price premiums' for low- and zero-emission vehicles be accommodated within your existing budget lines? Please indicate any changes expected to resourcing requirements.
- Please outline any other factors which may challenge your organisation in terms of financial costs e.g. supplier shortage; costs for supporting infrastructure installation; availability of public recharging/refueling infrastructure, changes required to the fleet composition?
- If higher clean procurement targets were to be implemented, in line with the policy ambitions set out in the *Programme for Government – Our Shared Future* (2020), would your organization be in a position to comply? What challenges (if any) would exceeding the minimum targets present to your organization?

#### Options 2a vs 2b

In transposing this Directive the Department has two options relating to the application of minimum targets. We can either require that minimum targets be met over the aggregate of all procurements or require that they are applied to each procurement which has been carried out.

Our preferred option is to allow the targets to be met over the aggregate of all procurements. In order to minimise any potential logistical and financial burden associated with this change to procurement rules, this option would transpose the Directive by allowing public bodies the flexibility to apply the Directive to selected contracts over the relevant reference period (2021 to end-2025; and 2026 to end-2030). The responsibility to ensure that the minimum targets have been met over the aggregate of contracts in each reference period would rest with the public body in question. This option would permit vehicle procurements for vehicle types for which low-and zero-emission alternatives are not yet readily available to continue as required by procuring clean vehicles in excess of the minimum targets in subsequent procurements.

#### Questions

- It is the aim of the State to ensure that changes to procurement practices are not excessively onerous for public sector bodies. From the perspective of your organisation, indicate if the application of minimum targets to all relevant procurements is preferable to the application of targets over the aggregate. When answering, please consider the administrative and regulatory changes required to monitor progress if the minimum targets are to be achieved over the aggregate of procurements between 2021 and end-2025.
- Would your organisation benefit from flexibility to meet the minimum targets in the aggregate of your procurements?
- From your procurement experience to date, can current market supply facilitate a proportion of clean vehicles in all new procurements?
- There is a risk of procurement happening in the last stages of the Directive's reference periods. This backloading of procurement could result in targets being missed due to supply constraints. In order to avoid backloading targets, would your organisation be able to meet certain minimum percentages, say 50%, of the procurement targets per year by end 2023?

## Options 2c vs 2d

As targets are calculated on the basis of the aggregate public procurement across a Member State (i.e. on the basis of the total number of vehicles within the scope of the Directive, which are procured during the respective period), Ireland has a level of flexibility in how the effort is distributed across different contracting authorities and contracting entities.

Therefore, the Directive does not directly set requirements for individual tenders, nor targets for individual cities or public authorities. Ireland may decide to set higher and lower targets for different public sector bodies, as long as the total number of vehicles procured during each reference period (2021-2025; 2026-2030; and every 5 years thereafter) includes the minimum share of clean vehicles.

The distribution of obligation may be implemented at the discretion of the State and may take account of a number of criteria, including for example the geographical location or area of operation, the nature, function or purpose of the public body, or the size of the public fleet in question. Pre-consultation has shown that a large part of the total share of public sector vehicle procurement is undertaken by bodies with the largest road fleets. This means that it would be extremely challenging for Ireland to meet national-level targets without universal distribution of effort.

## Questions

- Please advise any sector-specific/function-specific considerations which may compel the distribution of lower targets to your organisation. When answering, please consider appropriate alternative approaches to ensure that Ireland can meet the minimum targets in the aggregate.

## 2e vs 2f

The vehicle categories which fall outside the scope of the Directive present specific technical characteristics and market profiles which do not justify inclusion in the scope of the Directive. The European Commission has indicated that the low-emission vehicle market has not yet sufficiently matured to provide suitable alternatives to fossil fuelled vehicles in these categories.

Vehicles subject to national (optional) exemptions are generally vehicles that fall within the categories covered by the Directive, but which are dedicated to specific uses (e.g. police, emergency services, fire brigade etc.) and are specifically designed, constructed or adapted for this purpose. Noting the bespoke requirements associated with the Irish vehicle market e.g. right-hand drive, it is likely that low-emission market development will be slower than in other sectors of the European market for these specialised vehicle categories.

### Questions

- From your procurement experience to date, is it feasible to expect that the market will be sufficiently advanced to apply the Directive to non-typical vehicle types i.e. national exemptions?
- Are there certain categories of vehicles you feel shouldn't be exempt?

## Option 2g vs 2f

Ireland will be required to provide public procurement information to the European Commission to enable effective monitoring of the implementation of the Directive. It is intended that the European Commission will take on a role in monitoring progress towards national targets through the [Tender Electronic Database \(TED\)](#) to reduce administrative burdens for Member States. However, not all procurement information is captured by the TED e.g. information for Public Service Obligation (PSO) fleets. In order to collect this information and other relevant fleet composition data, a suitable mechanism must be identified to enable public bodies to report additional details of vehicle procurements to the Minister.

No existing mechanism currently provides sufficient procurement and fleet information to effectively facilitate monitoring of progress towards clean vehicle procurement targets or reporting by the State to the European Commission. It is proposed that the Sustainable Energy Authority of Ireland (SEAI) will be the monitoring and reporting body for this Directive and the Minister for Transport will be the Compliance Authority. Public sector bodies will be obliged to report procurement information annually as part of the existing energy efficiency reporting mechanisms. This was seen as the least onerous and simplest way of monitoring

and reporting as it isn't introducing a new system to public authorities but rather an additional layer to the already existing system.

There is no legal requirement on public bodies in Ireland at this point in time to provide information to the Minister about fleet composition or about procurement contracts undertaken which have a monetary value less than that of the relevant OJEU thresholds; however, it is proposed that this information will be included in the reporting requirements with a view to establishing a national inventory of publicly owned vehicles.

#### Questions

- Is the proposed reporting mechanism suitable for the purposes of providing fleet and procurement data, or can you indicate a more appropriate alternative approach?
- Please advise estimated additional administrative or compliance burden associated with the provision of fleet and procurement data.

## **Annex: Related Publications**

[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](#)

[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](#)

[REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on the application of Directive 2009/33/EC on the promotion of clean and energy efficient road transport vehicles](#)

[COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the document Proposal for A Directive of the European Parliament and of the Council amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles](#)

[S.I. No. 339/2011 - European Communities \(Clean and Energy-Efficient Road Transport Vehicles\) Regulations 2011](#)