

Revised CO2 Act to reduce greenhouse gas emissions from passenger cars

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Current regulation

Since 1 January 2013 the Federal Act on the Reduction of CO2 Emissions (CO2 Act)(**1**) and the Ordinance on the Reduction of CO2 Emissions (CO2 Ordinance)(**2**) have stipulated emissions regulations for new passenger cars registered for the first time in Switzerland. Under the CO2 Act, greenhouse gas emissions in Switzerland must be reduced by at least 20% by 2020 compared with 1990 levels.

One measure to achieve this goal is the threshold for CO2 emissions of passenger cars. Accordingly, the CO2 emissions of new passenger cars must be reduced to an average of 130 grams of CO2 per kilometer (g/km CO2). This target is valid until the end of 2019. As from 2020, a target value of 95g/km CO2 will apply.

Based on the target value, the fleets of all importers and Swiss manufacturers must meet a specific target, which is individually calculated as set out in the CO2 Ordinance.

If an importer or Swiss manufacturer exceeds its target, a penalty will be imposed. The targets under the CO2 Act differentiate between large and small-scale importers:

- Large-scale importers must:
 - meet targets only for the total number of newly imported vehicles; and
 - register at least 50 new passenger cars in Switzerland each year.
- Small-scale importers must:
 - meet targets for each individual vehicle; and
 - not register more than 50 new passenger cars in Switzerland each year.

Small-scale importers may collectively form emissions pools in order to achieve the minimum number of vehicles required to be classified as a 'large-scale' importer. As emissions pools have the same rights and obligations as large-scale importers, the members are liable for their CO2 emissions in solidarity. Private individuals who import new cars directly are considered small-scale importers.

Increasing penalties for CO2 emissions

Importers that exceed their individual targets are penalised. The 2017 to 2018 targets and penalties were as follows:

- Sfr5 to Sfr8 for the first gram of CO2 above the individual target level;
- Sfr15 to Sfr24 for the second gram of CO2 above the individual target level;
- Sfr25 to Sfr40 for the third gram of CO2 above the individual target level; and

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- Sfr95 to Sfr152 for the fourth and any further gram of CO₂ above the individual target level.

Following a regime change on 1 January 2019, there is no longer a gradual system of penalties. Rather, a penalty of Sfr95 to Sfr152 applies to every gram of CO₂ that exceeds an individual target. From 2020 the permitted average emissions level will be reduced to 95g/km CO₂. Thus, as of 2019, importers of new cars which have not undergone significant improvements in regard to CO₂ emissions will face substantial cost increases when registering said cars for the first time.

Effectiveness of current regulation

The CO₂ Act essentially aims to reduce greenhouse gas emissions as a response to global warming. However, the intermediate target to reduce the CO₂ emissions of new passenger cars to an average of 130g/km CO₂ by 2015 was not fulfilled; it remained unfulfilled in 2016 and 2017. Since 2017 there has even been an increase of average CO₂ emissions – the first increase since 1996 when CO₂ emissions were first recorded in Switzerland.

One reason for the increase may have been the fact that the requirements were not made more restrictive until the end of 2018 – the target value of 130g/km CO₂ had remained unchanged until then. Moreover, many Swiss consumers continue to purchase heavy passenger cars.

In 2017 59 of the 82 registered large-scale importers met their individual targets, whereas 23 exceeded the benchmarks and had to pay a penalty. The penalties amounted to approximately Sfr2.9 million.

In 2016 the penalties amounted to approximately Sfr2.4 million. As the CO₂ emissions regulations as from 1 January 2019 are considerably more restrictive, a substantial increase in penalties may be expected.

In the European Union, small manufacturers which register fewer than 10,000 new vehicles per year and niche manufacturers which register between 10,000 and 300,000 new vehicles per year may apply for a special target that is significantly higher than 130g/km CO₂. **(3)** This exemption has been adopted by Switzerland. As a result, a number of niche manufacturers of sports cars benefit from higher target values, even though their vehicles have comparatively high emissions levels.

Further, if a car was registered abroad no less than six months before the Swiss customs declaration, it will no longer be considered a new car registered for the first time and thus no penalties will apply in Switzerland – including *de facto* new vehicles with low mileages.

Revised CO₂ Act

The current CO₂ Act is a central pillar of Swiss climate policy. It regulates the reduction of greenhouse gas emissions in line with the second commitment period (2013 to 2020) under the Kyoto Protocol.

With the approval of the Paris Convention, the Federal Assembly agreed to reduce greenhouse gas emissions by 50% by 2030 compared with 1990 levels. To achieve this, a comprehensive revision of the current CO₂ Act is required to cover 2021 onwards.

The current CO₂ Act requires the Federal Council to submit proposals to Parliament in a timely manner for shaping Switzerland's climate policy from 2021 onwards. In 2018 the Federal Council submitted a bill for the comprehensive revision of the CO₂ Act. The government's proposals are currently being discussed in Parliament. Until the revised law enters into force, the existing CO₂ Act will apply.

Comment

While the current CO₂ Act has had some success in reducing CO₂ emissions, the average CO₂ emissions of passenger cars have increased in recent years. There are a number of reasons for this trend. For instance, the penalties which must be paid for exceeding the CO₂ emissions targets do not seem to be a sufficient incentive for manufacturers to build eco-friendly vehicles. Further, small-

scale importers are more severely affected by the current regime than large-scale importers, and exemptions may even apply for imports of certain cars with high CO2 emissions.

As the existing law cannot sufficiently meet the ambitious goals of the Paris Convention, Parliament should agree on a revised CO2 Act that can provide for appropriate instruments to reach these goals. Until such regulation enters into force, the question remains as to what penalties will be required in future to curb CO2 emissions.

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Endnotes

- (1) SR 641.71, Federal Act on the Reduction of CO2 Emissions.
- (2) SR 641.711, Ordinance on the Reduction of CO2 Emissions.
- (3) EU Regulation 443/2009 of 23 April 2009.

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