

# AUTOMATED VEHICLES BILL [HL]

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Automated Vehicles Bill [HL] as introduced in the House of Lords on 8 November 2023 (HL Bill 1).

- These Explanatory Notes have been prepared by the Department for Transport in order to assist the reader of the Bill. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

# Table of Contents

Subject	Page of these Notes
<b>Overview of the Bill</b>	<b>5</b>
<b>Policy background</b>	<b>5</b>
Policy development	5
Part 1 and Schedules 1 and 2: Establishing a regulatory scheme for automated vehicles	6
Part 2 and Schedule 3: Criminal liability for vehicle use	8
Part 3 and Schedule 4: Policing and investigation	9
Part 4 and Schedule 5: Marketing restrictions	10
Part 5 and Schedule 6: Permits for automated passenger services	10
Part 6: Adaptation of existing regimes	10
Part 7: General provision	12
<b>Legal background</b>	<b>13</b>
<b>Territorial extent and application</b>	<b>14</b>
<b>Commentary on provisions of Bill</b>	<b>16</b>
Part 1: Regulatory scheme for automated vehicles	16
Chapter 1: Authorisation of road vehicles for automated use	16
Clause 1: Basic concepts	16
Clause 2: Statement of safety principles	17
Clause 3: Power to authorise	17
Clause 4: Authorised automation features	18
Clause 5: Authorisation requirements and conditions	18
Clause 6: Authorised self-driving entities	19
Clause 7: Transition demands	20
Clause 8: Power to vary, suspend or withdraw	20
Clause 9: Further provision about variation, suspension and withdrawal	21
Clause 10: Register of authorisations	21
Clause 11: Regulations about authorisation procedure	22
Chapter 2: Licensing of operators for vehicle use without user-in-charge	22
Clause 12: Power to establish operator licensing scheme	22
Clause 13: Further provision about operator licensing	22
Chapter 3: Provision of information by regulated bodies	23
Clause 14: Collecting and sharing of information	23
Clause 15: Nomination of individuals	23
Clause 16: Purpose for which notices may be given	23
Clause 17: Power to issue information notice	24
Clause 18: Power to issue interview notice	24
Clause 19: Notices requiring individual attendance	24
Clause 20: Offences of non-compliance	25
Clause 21: Enforcement by court	25
Clause 22: Use of information obtained	25
Clause 23: Supplementary provision	26
Clause 24: False or withheld information relevant to vehicle safety	26
Clause 25: Aggravated offence where death or serious injury occurs	26

*These Explanatory Notes relate to the Automated Vehicles Bill [HL] as introduced in the House of Lords on 8 November 2023 (HL Bill 1)*

Clause 26: Liability of nominated individual	27
Clause 27: Liability of senior manager	27
Chapter 4: Powers to investigate premises used by regulated bodies	27
Clause 28: Warrants for entry, search and seizure	27
Clause 29: Powers exercisable under warrant	28
Clause 30: Offences of impeding execution of warrant	29
Clause 31: Seizure of items	29
Clause 32: Return of warrant	29
Clause 33: Use of information obtained	29
Chapter 5: Civil sanctions against regulated bodies	30
Clause 34: Compliance notices	30
Clause 35: Redress notices	30
Clause 36: Monetary penalties	31
Clause 37: Supplementary provision	31
Chapter 6: Other regulatory powers and duties	32
Clause 38: General monitoring duty	32
Clause 39: Duty with respect to incidents with potential regulatory consequences	32
Clause 40: Power to require reports from police and local authorities	32
Chapter 7: Supplementary provision	32
Clause 41: Notices	32
Clause 42: Protection of information	33
Clause 43: Fees	33
Clause 44: Interpretation	33
Clause 45: Related amendments	33
Part 2: Criminal liability for vehicle use	33
Chapter 1: Legal position of the user-in-charge	33
Clause 46: Meaning of “user-in-charge”	33
Clause 47: User-in-charge not liable for manner of driving	34
Clause 48: Exceptions from immunity	34
Clause 49: User-in-charge otherwise liable as driver	35
Clause 50: Power to change or clarify existing traffic legislation	35
Clause 51: Supplementary provision	35
Clause 52: Interpretation	36
Chapter 2: Offences	36
Clause 53: Use of vehicle without driver or licensed oversight	36
Clause 54: Dangerous use etc	36
Clause 55: Amendment of tampering offence	37
Clause 56: Amendment of offence concerning fitting of unsuitable parts	37
Part 3: Policing and investigation	37
Chapter 1: Stopping and seizure	37
Clause 57: Application of stopping powers etc	37
Clause 58: Seizure and detention	37
Clause 59: Interpretation	38
Chapter 2: Investigation of incidents by statutory inspectors	38
Clause 60: The role of inspector	38
Clause 61: Purpose of inspectors	38
Clause 62: General power to investigate certain incidents	39
Clause 63: Powers in respect of persons	39
Clause 64: Powers in respect of premises	40
Clause 65: Powers in respect of road traffic	41
Clause 66: Offences of impeding investigation	41
Clause 67: Application to police officers	42

*These Explanatory Notes relate to the Automated Vehicles Bill [HL] as introduced in the House of Lords on 8 November 2023 (HL Bill 1)*

Clause 68: Report of findings	43
Clause 69: Appointment of additional persons to exercise investigatory powers	43
Clause 70: Additional power in respect of information and material	43
Clause 71: Obtaining reports from police	44
Clause 72: Ancillary functions	44
Clause 73: Protection of information	45
Clause 74: Further provision about physical evidence	45
Clause 75: Expenses	46
Clause 76: Offences under regulations	46
Clause 77: Interpretation	47
<b>Part 4: Marketing restrictions</b>	<b>47</b>
Clause 78: Restriction of certain terms to authorised automated vehicles	47
Clause 79: Communications likely to confuse as to autonomous capability	47
Clause 80: Liability of corporate officers etc	48
Clause 81: Interpretation and supplementary provision	48
<b>Part 5: Permits for automated passenger services</b>	<b>48</b>
Clause 82: Power to grant permits	48
Clause 83: Disapplication of taxi, private hire vehicle and bus legislation	49
Clause 84: Civil sanctions for infringements	49
Clause 85: Consent requirement for services resembling taxis or private hire vehicles	50
Clause 86: Consent requirement for services resembling buses	50
Clause 87: Further requirements	50
Clause 88: Collection sharing and protection of information	51
Clause 89: Procedural and administrative matters	51
Clause 90: Interpretation	52
<b>Part 6: Adaptation of existing regimes</b>	<b>52</b>
Clause 91: Power to update type approval requirements	52
Clause 92: Application of roadside testing powers etc	52
Clause 93: Provision of information about traffic regulation measures	53
<b>Part 7: General provision</b>	<b>54</b>
Clause 94: General definitions	54
Clause 95: Disclosure and information: interaction with external constraints	54
Clause 96: Crown application	54
Clause 97: Regulations	54
Clause 98: Extent	54
Clause 99: Commencement and transition provision	54
Clause 100: Short title	54
<b>Schedule 1: Enforcement action under part 1: procedure</b>	<b>54</b>
<b>Part 1- Unilateral variation, suspension or withdrawal of authorisation</b>	<b>54</b>
Paragraph 1: Ordinary procedure	54
Paragraph 2: Procedure for urgent suspension of temporary variation	55
Paragraph 3: Appeals	55
Paragraph 4: Backstop procedure for cases where authorised self-driving entity is defunct	55
<b>Part 2- Civil sanctions</b>	<b>55</b>
Paragraph 5 and 6: Notices of intent and costs	55
Paragraph 7: Appeals	56
Paragraph 8: Assignment of functions to traffic commissioners	57
<b>Schedule 2: Amendments related to Part 1</b>	<b>57</b>
Paragraph 1: Theft Act 1968 (c. 60)	57
Paragraph 2: Prescription and Limitation (Scotland) Act 1973 (c. 52)	58
Paragraph 3: Limitation Act 1980 (c. 58)	58
Paragraph 4: Road Traffic Act 1988 (c. 52)	58

*These Explanatory Notes relate to the Automated Vehicles Bill [HL] as introduced in the House of Lords on 8 November 2023 (HL Bill 1)*

Paragraph 5: Automated and Electric Vehicles Act 2018 (c. 18)	58
<b>Schedule 3: Amendments related to Sections 53 and 54</b>	<b>58</b>
Paragraph 1: Road Traffic Act 1988 (c. 52)	58
Paragraph 2: Road Traffic Offenders Act 1988 (c. 55)	58
Paragraph 3: Crime (International Co-operation) Act 2003 (c. 32)	58
Paragraph 4: Armed Forces Act 2006 (c. 52)	58
<b>Schedule 4: Amendments related to Section 66(3)</b>	<b>58</b>
Paragraph 1: Amendments related to section 66(3)	58
<b>Schedule 5: Enforcement of marketing restrictions</b>	<b>58</b>
Paragraph 1: Duty to enforce	58
Paragraph 2: Application of consumer enforcement powers	59
Paragraph 3: Out-of-court undertakings	59
Paragraph 4: Civil injunctions	59
Paragraph 5: Time limit for prosecution	59
<b>Schedule 6: Civil sanctions for infringing passenger permit scheme</b>	<b>59</b>
Paragraph 1: Compliance notices	59
Paragraph 2: Monetary penalties	59
Paragraph 3: Notices of intent	59
Paragraph 4: Costs	60
Paragraph 5: Cancellation and variation	60
Paragraph 6: Appeals	60
Paragraph 7: Enforcement action in respect of multiple occurrences	60
<b>Commencement</b>	<b>61</b>
<b>Financial implications of the Bill</b>	<b>61</b>
<b>Parliamentary approval for financial costs or for charges imposed</b>	<b>61</b>
<b>Compatibility with the European Convention on Human Rights</b>	<b>61</b>
<b>Environment Act 2021</b>	<b>64</b>
<b>Related documents</b>	<b>64</b>
<b>Annex A – Territorial extent and application in the United Kingdom</b>	<b>65</b>
Subject matter and legislative competence of devolved legislatures	69

## Overview of the Bill

- 1 The Automated Vehicles Bill implements the recommendations of the 4-year review of regulation for automated vehicles carried out jointly by the Law Commission of England and Wales and the Scottish Law Commission (the Law Commissions). It is intended to set the legal framework for the safe deployment of self-driving vehicles in Great Britain.
- 2 The Bill is comprised of 7 Parts and 6 Schedules, which are explained below.

## Policy background

### Policy development

- 3 The Law Commissions' review of the law relating to automated vehicles involved three rounds of consultation between November 2018 and December 2020, involving over 350 meetings with individuals and organisations, and analysis of over 400 written responses. The Law Commissions published their report Automated Vehicles: joint report with 75 recommendations in January 2022.<sup>1</sup>
- 4 The Government's response to the recommendations was published in the Connected and Automated Mobility 2025: Realising the benefits of self-driving vehicles in the UK (CAM 2025) in August 2022.<sup>2</sup> Based on the Law Commissions' recommendations, CAM 2025 committed to set out a legal and safety framework to provide clarity of responsibility for self-driving vehicles and to put in place new safety requirements. The framework applies to vehicle systems that are capable of driving a vehicle, for some or all of a journey, with no human input. Such systems are considered 'self-driving', and legal responsibilities change. This technology is distinct from technology that supports a driver (driver assistance technology), where the driver remains responsible at all times. The Law Commissions recommended that it should be a criminal offence to market a vehicle as self-driving if it does not meet the legal definition.
- 5 As recommended by the Law Commissions, CAM 2025 identifies new legal entities responsible for the safety of self-driving systems and creates a new legal status for a driver who has handed control of a vehicle to a self-driving system. It also sets out details of a new safety framework for self-driving vehicles on roads in Great Britain.
- 6 The safety framework includes a high-level non-statutory **safety ambition** which aims to provide a focus for Government and industry as self-driving vehicles are developed and deployed, and to provide a publicly-accessible aim to support public acceptance. A set of National Safety Principles, referred to as a **Statement of Safety Principles** in the Bill, will set out further detail of the safety expectations for self-driving vehicles and to which the Secretary of State is required to have regard when assessing whether a vehicle is able to drive itself safely and legally..

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<sup>1</sup> Automated Vehicles: joint report: <https://lawcom.gov.uk/project/automated-vehicles/>

<sup>2</sup> Connected & Automated Mobility 2025: <https://www.gov.uk/government/publications/connected-and-automated-mobility-2025-realising-the-benefits-of-self-driving-vehicles>

- 7 Vehicles with automated systems will be subject to detailed technical assessment and **approval** for the purposes of safety and cyber-security using the well-established Vehicle Type Approval process. Amendments to the approval process will be made where necessary to account for new automated technologies. A vehicle with automated technology may be put forward for **authorisation**, which is the process by which a system will be assessed as self-driving. If assessed as self-driving, authorisation will identify the organisation responsible for the system.
- 8 If an authorised self-driving system operates without a responsible individual inside at any point, it will require a **licensed operator** to oversee the service. If the service carries passengers, it will require a **permit for automated passenger services** or license to do so under existing taxi, private hire or public service vehicle laws.
- 9 An **in-use regulatory scheme** will hold those responsible for self-driving systems to account while the systems are in use, and new sanctions and penalties will apply if the regulated bodies fail to meet their obligations. **No-blame safety investigations** by inspectors of automated vehicle incidents will make recommendations to inform and shape the ongoing safe development and deployment of self-driving vehicles.
- 10 In addition to the Law Commission’s recommendations, the Bill will make information about **traffic regulation orders (TROs)** available digitally and in a common format for use in self-driving vehicles and other systems that facilitate driving vehicles on a road. The data, which includes, for example, speed limits, road closures and restrictions, location and times of use of bus lanes and parking bays can then be used to create a digital map of the road network which will support the safe operation of self-driving vehicles. The proposal for digital TROs was consulted on in 2022.<sup>3</sup>
- 11 The following paragraphs provide further detail on the policy background, following the structure of the Bill.

## Part 1 and Schedules 1 and 2: Establishing a regulatory scheme for automated vehicles

### **Chapter 1: Authorisation of road vehicles for automated use**

- 12 Chapter 1 sets out the basic concepts and safety expectations, and establishes a regulatory scheme for a vehicle to be authorised in Great Britain as “self-driving”.
- 13 At present it is the responsibility of the driver to follow the rules of the road. So, even when using driver assistance systems, the driver must always monitor the driving of the vehicle and be ready to intervene. Chapter 1 sets out the “self-driving test” which identifies, in law, those systems (known as “features”) that are sufficiently technologically advanced that there does not need to be an individual in the driving seat monitoring the road and behaviour of the vehicle. Legal responsibility for self-driving vehicles shifts away from the human user of the vehicle.

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<sup>3</sup> Traffic Regulation Orders: <https://www.gov.uk/government/consultations/traffic-regulation-orders-changes-to-publishing-requirements-and-special-events-order-approvals>

- 14 Authorisation is the process by which the Secretary of State will determine whether a vehicle meets the self-driving test and other regulatory requirements . Authorisation will consider whether a vehicle can safely and legally drive itself without the need for monitoring or control by an individual.
- 15 Each authorised automated vehicle must have an authorised self-driving entity (ASDE) who will be responsible for the way that the vehicle drives and for meeting other regulatory obligations. The identity of the ASDE for each authorised automated vehicle will be published on a register. The ASDE must appoint a nominated manager who is responsible for providing information that regulators require The ASDE may be subject to regulatory sanctions if an automated vehicle commits a traffic infraction or if regulatory requirements have not been met.
- 16 The Law Commissions also recommended that the Secretary of State for Transport be required in law to publish safety principles against which the safety of automated vehicles can be measured. The Bill refers to this standard as a ‘Statement of Safety Principles’ (see clause 2) and requires the Secretary of State to consult on and define the Safety Principles in a statement laid before Parliament. The Safety Principles will set out the safety expectations for self-driving vehicles and the Secretary of State is required to have regard to the Safety Principles in their assessment during the authorisation process of whether a vehicle meets the self-driving test under clause 1. The power to authorise cannot be exercised until the Statement of Safety Principles has effect.

## **Chapter 2: Licensing of operators for vehicle use without user-in-charge**

- 17 Chapter 2 is concerned with ‘no-user-in-charge’ (NUiC) vehicles. Some self-driving features will not require an individual to be in the vehicle, and in a position to exercise control of the vehicle at any point in the journey (a ‘user-in-charge’) and such features are therefore referred to as a NUiC features. For example, a vehicle with a NUiC feature could travel empty or with only freight or passengers (no responsible human needed inside the vehicle).
- 18 As will be required for all self-driving vehicles, these vehicles must have an authorised self-driving entity (responsible for the way the vehicle drives), but will also be required to be overseen by a licensed NUiC operator. The licensed operator will be required to have “oversight” of the vehicle. This involves knowing where its vehicles are, maintenance and insurance and general responsibility for safe operations. This role is, in some respects, similar to a bus operator today.
- 19 The Bill therefore provides for the establishment of an operator licensing scheme to ensure that companies operating self-driving vehicles are subject to set requirements and are suitable for the role.

## **Chapter 3: Provision of information by regulated bodies**

- 20 Safety assurance will rely heavily on information provided by the ASDE and NUiC operator to the regulator, both in their safety cases and in subsequent submissions. Chapter 3 makes provision for the sharing of information by ASDE/NUiC operators with the Secretary of State and others.
- 21 The functioning of the safety framework relies on good quality information being provided. The Law Commissions found existing offences such as corporate manslaughter, fraud and Health and Safety offences left gaps, and new offences were necessary. The process would be undermined by



any lack of candour. The provisions therefore put in place specific criminal offences for misrepresentations and non-disclosure that have implications for vehicle safety.

#### **Chapter 4: Powers to investigate premises used by regulated bodies**

- 22 Chapter 4 gives various powers to investigate premises used by bodies regulated under this Bill. The provisions in this Chapter are in response to the Law Commissions' recommendation that the in-use regulator should have powers to apply for a search warrant to obtain information which is relevant to an investigation and powers to inspect remote operation centres.

#### **Chapter 5: Civil sanctions against regulated bodies**

- 23 Chapter 5 provides for a range of civil sanctions against bodies regulated under the Bill if they fail to comply with, amongst other things, authorisation requirements or information obligations. The provisions in this Chapter are in response to the Law Commissions' recommendation that the in-use regulator should have statutory powers to impose the following regulatory sanctions: civil penalties; redress orders; compliance orders.

#### **Chapter 6: Other regulatory powers and duties**

- 24 Chapter 6 sets out the Secretary of State's regulatory duties to monitor the performance of authorised automated vehicles and ensuring that the safety of the vehicles is consistent with the Statement of Safety Principles. The Secretary of State will issue annual monitoring reports. This Chapter sets out powers to investigate relevant incidents.

#### **Chapter 7: Supplementary provision**

- 25 Chapter 7 makes supplementary provisions for the purposes of Part 1 covering matters such as the subsequent use of information obtained under powers given by this Part.

#### **Schedule 1: Enforcement action under Part 1: procedure**

- 26 Schedule 1 sets out the procedures for exercising the power to suspend or vary authorisations, as well as for issuing certain types of notices and penalties under Part 1.

#### **Schedule 2: Amendments related to Part 1**

- 27 Schedule 2 makes various consequential amendments to existing provisions.

### **Part 2 and Schedule 3: Criminal liability for vehicle use**

#### **Chapter 1: Legal position of the user in charge**

- 28 Chapter 1 provides that, in certain circumstances where an authorised automated feature is engaged, an individual in the vehicle and in a position to operate the driving controls (referred to as a "user-in-charge", or UiC) may claim an immunity for offences arising from the way the vehicle is driven.
- 29 If a self-driving feature requires a responsible human inside the vehicle (e.g. because it can only complete part of a journey such as for a motorway chauffeur system), that human is the driver while the feature is disengaged and becomes a UiC when the self-driving feature is engaged. The UiC will not be responsible for the way the self-driving vehicle drives when the feature is engaged.

- 30 The UiC must however be qualified and fit to drive, and in a position to exercise control. The UiC also retains responsibilities not associated with dynamically controlling the vehicle and may be called on to take over driving if the self-driving feature issues a transition demand – and may have to drive for part of the journey to reach their destination.
- 31 While the self-driving feature is engaged, the UiC is not responsible for dynamic driving. They do not control the vehicle through steering, accelerating or braking, and do not need to monitor the driving environment. They have express immunity from the most serious road traffic offences (subsections 1 to 3A of the Road Traffic Act 1988). They are not responsible for signals and lighting. The immunity ensures that the user-in-charge cannot be held liable for criminal offences which arise from self-driving activities.
- 32 However, a UiC does retain other driver responsibilities not linked to the manner of driving. For example, to ensure that the vehicle has appropriate insurance, check that any load is secure, ensure roadworthiness, and ensure that any children in the vehicle are wearing their seatbelts. Other examples of UiC responsibilities in the clauses include offences relating to parking, and payment of tolls and charges.
- 33 A UiC should remain able to retake dynamic driving control, for example they must be awake and in the driving seat. Mobile phone use remains prohibited.

## **Chapter 2: Offences**

- 34 Chapter 2 sets out new driving offences relating to automated vehicles and amends existing offences in the Road Traffic Act 1988 to apply to circumstances arising from the use of automated vehicles.
- 35 With automation there is likely to be a large dependency on software which is not adequately reflected in current legislation. The Bill therefore makes amendments to bring software within existing offences under the Road Traffic Act 1988 around tampering, and the fitting and supply of defective or unsuitable parts.

## **Schedule 3: Amendments related to section 54**

- 36 Schedule 3 makes amendments to existing provision in consequence of the new offences.

## **Part 3 and Schedule 4: Policing and investigation**

### **Chapter 1: Stopping and seizure**

- 37 Chapter 1 makes provision to enable existing stopping powers to be exercised against automated vehicles, and makes provision in respect of the seizure and detention of vehicles.

### **Chapter 2: Investigation of incidents by statutory inspectors**

- 38 Chapter 2 makes provision for the appointment of inspectors of automated vehicle incidents for the purpose of carrying out safety investigations. Such investigations are to increase understanding of and reduce the risks of harm from the use of automated vehicles and not to establish blame or liability. Further provision under this Chapter is concerned with giving inspectors powers to obtain and gather evidence and also with the subsequent use of information, contents of safety reports and procedural matters.

- 39 This is distinct from the in-use regulatory function, the purpose of which is to monitor and enforce regulatory standards. The regulatory function will look at how and why an automated vehicle has committed a traffic infraction, and whether it is appropriate to issue regulatory sanctions. The safety investigations conducted by statutory inspectors will not establish blame or liability, nor issue sanctions, but rather will publish non-binding recommendations. This is because the purpose of a statutory inspector is to identify, improve the understanding of, and reduce the risk of automated vehicle incidents through conducting a safety investigation.
- 40 These powers fulfil the recommendation from the Law Commissions that an independent collision investigation unit should be given responsibility for investigating serious, complex and high-profile collisions involving automated vehicles.

#### **Schedule 4: Amendments related to section 66(3)**

- 41 Schedule 4 makes amendments to the Road Traffic Offenders Act 1988 to provide for the offence of failing to comply with an inspector's direction under clause 66(3).

#### **Part 4 and Schedule 5: Marketing restrictions**

- 42 A driver in a vehicle with assistance technology who believes the vehicle is capable of driving itself could over-rely on the vehicle and disengage from the driving task when it is not safe to do so. Therefore, Part 4 of the Bill creates (and makes further provision in relation to) new offences to ensure that only authorised automated vehicles are marketed using words or symbols reserved only for authorised automated vehicles, and to ensure that vehicles that only provide driver assistance (and hence are not authorised automated vehicles) are not marketed in a way that could confuse the driving public into believing they do not need to pay attention to the road. The offences only apply to people acting in the course of business and if the use of the restricted term or confusing communication is directed at end-users.
- 43 Schedule 5 requires the Secretary of State to enforce misleading marketing provisions and grants powers in Part 3 of Schedule 5 of the Consumer Rights Act 2015 for that purpose.
- 44 Part 4 and Schedule 5 implement the Law Commissions' recommendation that it should be a criminal offence to market a vehicle as self-driving if it is not authorised as such.

#### **Part 5 and Schedule 6: Permits for automated passenger services**

- 45 Part 5 and Schedule 6 of the Bill make provision in respect of the licensing of automated passenger services, the disapplication of existing taxi, private hire and bus legislation to licensed automated passenger service providers as long as they remain in the area in which, and in a vehicle in which, services can be provided under the permit. Permits may be granted subject to conditions. It also sets out the requirements that must be satisfied before a permit is granted.
- 46 Schedule 6 provides that infringement of obligations the permit holder must fulfil as a condition of holding the permit can be enforced by compliance notices, monetary penalties and costs notices and provides for rights of appeal.

#### **Part 6: Adaptation of existing regimes**

- 47 Part 6 of the Bill makes provision for the adaptation of existing regimes. Such provision includes, for example, the power to amend the type-approval framework in assimilated legislation to make

it more suitable for automated vehicles, the modification of roadside testing and inspection powers for the purpose of ascertaining whether requirements under this Bill are satisfied, and a power to require that traffic regulation orders are provided in digital form so that they may be used by self-driving vehicles.

### **Type approval**

- 48 The process for checking that vehicles, their systems and their components comply with applicable safety and environmental standards is a well-established process for conventional vehicles (known as Vehicle Type Approval). Many of the requirements that apply in GB Type Approval are set at an international level at the United Nations Economic Commission for Europe (UNECE), which provides harmonisation of vehicle standards, meaning a manufacturer can be approved once for access to multiple markets. Where UNECE standards are not in place, Great British standards can be developed.
- 49 The Law Commissions recommended that the Secretary of State should establish a domestic self-driving vehicle technical approval scheme to approve vehicles with self-driving features which do not have UNECE approvals and which are intended for use on Great British roads.
- 50 Type approval differs from the authorisation stage in Part 1 as the approval process is needed to register a vehicle with the Driver Vehicle and Licensing Agency based on it meeting specific technical requirements, whereas authorisation determines whether a vehicle meets the self-driving test and, therefore, whether legal responsibilities change.
- 51 The Bill grants power to the Secretary of State to amend the existing assimilated type approval frameworks. This is to ensure that type approval can be issued for self-driving vehicles which do not, for example, have a driver's seat or driver's controls. Amendments to existing requirements, including for example vehicle categories and definitions, are foreseen.
- 52 Specific technical provisions are also required for the automated driving system (responsible for controlling the automated vehicle) which are expected to include ongoing obligations in order to ensure the continued on-road safety of self-driving vehicles. For example, changes in traffic rules or the emergence of new cyber-security vulnerabilities may require the manufacturer to take action such as issuing software updates.
- 53 The power would also enable the Secretary of State to set requirements for manufacturers to have in place appropriate management systems covering safety, security, and software updates for vehicles. Management systems are frameworks consisting of the manufacturer's policies, processes, documentation, standards, toolsets and competencies of personnel which cover the activities around the safety and security of a vehicle throughout its life.

### **Digitalising Traffic Regulation Orders**

- 54 Self-driving vehicles will need to have an accurate and up-to-date understanding of the road, and to know the legal parameters of the network. Traffic Regulation Orders (TROs) hold much of the necessary information to facilitate this, for example, information on speed limits, parking bays, bus lanes and road works. TROs are issued and held by traffic regulation authorities and stored on paper or in separate authority systems, and the format and content of both paper and digital

TROs differ between each authority. The information is therefore not readily available to those developing or deploying self-driving vehicles.

- 55 In order to facilitate access to the information, the Bill gives the Secretary of State the power to make regulations to require TRO information to be provided by traffic regulation authorities in England, to specify where it is sent, and that it must be provided in line with specified electronic data standards.
- 56 The intention is for the Government to publish this information via a common publication platform so that it can be used by self-driving vehicles and by electronic equipment designed to undertake or facilitate the driving of vehicles on a road.

### Part 7: General provision

- 57 Part 7 of the Bill makes general provision concerned with matters such as the application of data protection legislation, Crown application, the procedure for making regulations under the Bill, and extent.

## Legal background

- 58 The following is a summary of the legal background to the Bill. Further explanation is contained in the policy background sections of these notes.
- 59 The Bill provides a legal framework for regulating the use of automated vehicles on roads and other public places. The Bill largely reflects the recommendations of the review of the law relating to automated vehicles undertaken by the Law Commission of England and Wales and the Scottish Law Commission (the Law Commissions).
- 60 The Bill creates new licensed and regulated entities that will assume liability for the way that an automated vehicle drives. Drivers have immunity from criminal liability arising from how the vehicle is driven while the automated vehicle features are engaged. Civil liability to other road users will be met by insurers' liabilities under the Automated and Electric Vehicles Act 2018 together with power in the Bill to make redress orders. The Bill creates a number of new criminal and civil penalties. Most of the new offences apply to the new regulated entities and actors created under the Bill.
- 61 The following notes give a brief overview of significant existing legislation referenced by the Bill.
- 62 The Road Traffic Act 1988 is an Act that regulates road traffic, including road traffic offences, on public roads and other public places in England, Scotland and Wales. The offences in the Act are amended under Chapter 2 of the Bill and new offences created (clause 53 and 54). Amendments are also made to the roadside testing powers (clause 92) and new definitions inserted into the Act (clause 94). Further amendments to the Act that relate to insurance provisions can be found in Schedule 2 of the Bill.
- 63 The Road Traffic Offenders Act 1988 is an Act that contains provisions concerning the prosecution and punishment of road traffic offences including the penalties attached to the offences. This is amended under Chapter 2 of the Bill, to set out the penalties for the new offences introduced into the Road Traffic Act 1988.
- 64 The Automated and Electric Vehicles Act 2018 is an Act that contains provisions which define an automated vehicle for the purposes of the Act and the liability of insurers in respect to those vehicles. At Schedule 2 the Bill amends the Act to ensure it aligns with the framework set out in the Bill for automated vehicles and removes the requirement for the Secretary of State to keep a list of automated vehicles but maintains the liability of insurers in respect to authorised automated vehicles.
- 65 The Road Traffic Regulation Act 1984 is an Act that provides powers to regulate traffic on public roads, including making traffic regulation orders and setting speed limits. Part 6 of the Bill at clause 93 provides a new power for the Secretary of State to make regulations requiring a traffic regulation authority for an area in England to provide information about relevant traffic regulation measures made using powers under the Act, to enable information to be communicated or acted upon by authorised automated vehicles or in respect to the electronic equipment of other vehicles on roads.
- 66 The assimilated type approval legislation (listed in the Bill at clause 91(4)), provides the legal powers for checking that vehicles, their systems and their components comply with applicable safety and environmental standards and is a well-established process for conventional vehicles.

- Clause 91 provides a power to amend the assimilated type approval legislation for the purpose of setting suitable technical requirements for the type of vehicles described under clause 91(1).
- 67 Clause 95 clarifies that any provision in the Bill that relates to obtaining or using information must comply with the Data Protection Act 2018.
- 68 Part 5 of the Bill introduces a new framework for issuing permits for automated passenger services. Clause 83 disapplies existing taxi, private hire and bus legislation for automated passenger services. The relevant legislation is listed under this clause.
- 69 Schedule 2 to the Bill contains other amendments to provisions of other Acts, in most cases to insert 'authorised' into references to automated vehicles in these Acts or to update the existing relevant references in the act to include 'authorised automated vehicles'.
- 70 Schedule 5 to the Bill amends the Consumer Rights Act 2015 to include reference to powers inserted by the Bill relating to misleading marketing offences under Part 4 of the Bill.

## Territorial extent and application

- 71 Clause 98 sets out the territorial extent of the Bill, that is the jurisdictions where the Bill forms part of the law. The extent of a Bill can be different to its application. Application is about where the Bill produces a practical effect rather than where it forms part of the law.
- 72 The Bill generally extends and applies to England and Wales and Scotland, with the exception of the following clauses which do not extend to Scotland:
- a. Clause 54(2) (Dangerous use etc), which inserts a new section 22B (offence of causing danger to road-users resulting in automated vehicle killing or seriously injuring) into the Road Traffic Act 1988. The new offence's extent is consistent with the existing offence in section 22A of the Road Traffic Act 1988, which also extends to England and Wales only.
  - b. Clause 93 (Provision of information about traffic regulation measures) extends to England and Wales only. This clause has practical effect in England only.
- 73 The core provisions of the Bill do not apply to Northern Ireland in line with the Road Traffic Act 1988, which extends to England and Wales and Scotland only. Northern Ireland has its own road traffic laws. However, the Bill also makes certain consequential amendments extending to Northern Ireland:
- a. Schedule 3 makes consequential amendments to provisions in existing legislation extending to England and Wales, Scotland and Northern Ireland. An amendment made by a Schedule has the same extent as the provision amended. Accordingly, Schedule 3 and the provisions in the Bill providing for it (clauses 53(3) and 54(4)) extend to England and Wales, Scotland and Northern Ireland as relevant.
  - b. Paragraph 2 of Schedule 5 extends to England and Wales, Scotland and Northern Ireland, as it amends the Consumer Rights Act 2015 which has that extent. Clause 81(4) accordingly also extends to England and Wales, Scotland and Northern Ireland.

- 74 The provisions in Part 7 of the Bill (General provision) also extend to Northern Ireland, as well as England and Wales and Scotland.
- 75 The Bill provides for extraterritorial application in relation to:
- a. The Secretary of State's powers to issue information and interview notices specifying individuals or classes of individuals consistent with clause 19 (Notices requiring individual attendance). Clause 19 provides that notices may specify an individual or class of individuals who are carrying out, or have carried out, paid work for a regulated body (in whatever capacity). These individuals need not have any further connection to the United Kingdom.
  - b. The offences in clause 78 (Restriction of certain terms to authorised automated vehicles) and clause 79 (Communications likely to confuse as to autonomous capability). These offences can be committed anywhere in the world. In both cases, for the elements of the offence to be made out, it must be reasonable to anticipate that the use of the term or communication will come to the attention of an end-user or potential end-user of road vehicles in Great Britain.
- 76 Where relevant, the commentary on individual provisions of the Bill also includes a paragraph explaining their application.
- 77 The provisions in Part 5 of the Bill (Permits for automated passenger services) touch on matters which are devolved to Scotland and Wales, insofar as they relate to any passenger services not provided in public service vehicles. Clause 40 of the Bill (Power to require reports from police and local authorities) gives the Secretary of State power to impose reserved functions on Devolved Welsh Authorities and to modify the executive competence of Scottish Ministers for reserved purposes. Legislative consent motions are being sought from the Scottish Parliament and Senedd Cymru in relation to both these aspects of the Bill. There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned.
- 78 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.



# Commentary on provisions of Bill

## Part 1: Regulatory scheme for automated vehicles

### Chapter 1: Authorisation of road vehicles for automated use

#### Clause 1: Basic concepts

- 79 Clause 1 sets out the criteria to satisfy the “self-driving test”. The self-driving test and other requirements must be met for a vehicle to be authorised for use in Great Britain so that legal responsibility for the behaviour of the vehicle will change. The test will consider whether a ‘feature’ of the vehicle enables the vehicle to drive autonomously. To drive autonomously means the vehicle is not being controlled by an individual but by equipment, and without the need for an individual to control the vehicle or to monitor the vehicle or its surroundings in order to intervene in driving.
- 80 A ‘feature’ refers to a specific operation that the vehicle can undertake. A vehicle may have more than one self-driving ‘feature’. For example, a vehicle may be able to drive itself on motorways using one ‘feature’ and in car parks using a separate ‘feature’. Clause 7 sets out further detail on ‘authorised automation features’, including how to specify or describe them.
- 81 Subsection (2) sets out the requirements for a vehicle to ‘satisfy the self-driving test’, which include the vehicle being able to drive safely and legally. Subsection (7) specifies that a vehicle drives safely if it travels to an acceptably safe standard. When assessing safety, the Secretary of State must have regard to the ‘statement of safety principles’, which are provided for in clause 2 and which must be framed with a view to securing better road safety as a result of the use of automated vehicles. Subsection (7) also specifies that a vehicle drives legally if there is an acceptably low risk of committing a traffic infraction. The meaning of ‘committing a traffic infraction’ is set out in clause 44(2), which is committed if a vehicle does anything that would – if it were done by an individual – amount to an offence or cause a person to become liable to a road traffic penalty charge. The Bill makes provision for the driver to have an immunity for offences committed by the vehicle while a self-driving feature is engaged, with the authorised self-driving entity (ASDE) being subject to a range of specified civil sanctions.
- 82 Subsection (3) states that assessment of whether a vehicle satisfies the self-driving test must take account of the location and circumstances of the vehicle. This is because a vehicle may be capable of driving itself (i.e. satisfying the self-driving test) only in some locations or circumstances. For example, a vehicle may only be able to drive itself on a motorway during daylight hours. Authorisation under clause 3 will be limited to the circumstances in which the self-driving test is satisfied.
- 83 Subsection (4) states that a ‘feature’ is a combination of mechanical or electronic operations performed by the vehicle’s equipment. This might include, for example, a computer and its software which receives input from sensors, processes the input, and controls the vehicle’s steering, braking and other systems in order to perform the dynamic driving task. The equipment may be inside or outside the vehicle, for example in connected infrastructure.

- 84 Subsection (5) sets out the meaning of travelling ‘autonomously’. It means that the vehicle is controlled by its equipment and not by an individual, and neither the vehicle nor its surroundings are being monitored by an individual with a view to immediate intervention of the driving of the vehicle. If an individual is required to monitor the vehicle and its surroundings with a view to intervening in the driving of the vehicle in order to ensure its safety or legality, it would not be considered capable of travelling autonomously.
- 85 Subsection (6) clarifies the meaning of control and is self-explanatory. Subsection (7) is explained in paragraph 69 above.
- 86 Subsection (8) requires the Secretary of State to have regard to the ‘statement of safety principles’ (provided for in clause 2) when assessing a vehicle’s ability to travel safely and autonomously.

## Clause 2: Statement of safety principles

- 87 Clause 2 requires the Secretary of State to publish statutory guidance in the form of a ‘statement of safety principles’. The safety principles will be framed with a view to securing that road safety will be better as a result of the use of authorised automated vehicles than otherwise. The Secretary of State must have regard to these when deciding if an individual vehicle is capable of driving autonomously and safely so that it satisfies the self-driving test at initial authorisation and throughout the authorisation period.
- 88 Subsection (1) sets out the requirement for the Secretary of State to prepare the statement of principles. Subsection (2) requires that the principles must be framed with a view to securing that road safety is better as a result of the use of automated vehicles than it would otherwise be.
- 89 Subsections (3) to (8) set out that the statement of safety principles must be subject to prior consultation with relevant stakeholders, and the negative procedure in Parliament.
- 90 Subsection (9) prevents the use of authorisation powers (see clause 3) before the statement of safety principles has effect as they are intended to frame authorisation decisions with a view to ensuring improved road safety (see subsection (2)).

## Clause 3: Power to authorise

- 91 This clause gives the Secretary of State the power to authorise a “road vehicle” for use as an automated vehicle, if the vehicle meets the self-driving test and any initial authorisation requirements are met. “Road vehicle” is defined in clause 44 (1) of the Bill as a mechanically propelled vehicle intended or adapted for use on roads.
- 92 Subsection (2) specifies that an authorisation may apply to a single identified vehicle, a number of identified vehicles, or a vehicle ‘type’. Vehicle type is a way of grouping and identifying vehicles by feature or features designed to enable self-driving.
- 93 Subsection (3) requires that any description of a ‘type’ of vehicle must describe the vehicles in such a way that the self-driving test and any authorisation requirements apply equally to an individual vehicle of that type.
- 94 The ability to authorise a single vehicle, or to authorise a number of vehicles by ‘type’, provides flexibility to deal appropriately with a range of vehicles and technologies, and to apply

appropriate requirements. For example, an automated vehicle of bespoke design for a niche market may require individual authorisation and vehicle-specific requirements. A mass market automated vehicle design, produced in large numbers where all vehicles are equipped with the same self-driving features could be authorised as a ‘type’.

#### Clause 4: Authorised automation features

- 95 The self-driving test will consider vehicle ‘features’ designed to enable self-driving. A ‘feature’ in this context is a system that operates in a specific set of circumstances which must be specified as part of the authorisation application. For example, a self-driving parking feature or a self-driving motorway chauffeur feature. A vehicle may have more than one self-driving ‘feature’. For example, it may be able to drive itself on motorways using a particular combination of equipment, and in car parks using a different combination of equipment.
- 96 Clause 4 (1) requires the Secretary of State to identify the feature or features that meet the self-driving test. More than one feature may be identified if the features are distinct (subsection (2)). Subsection (3) details what the feature identification should include.
- 97 Subsection (3)(a) clarifies that a ‘mode of operation’ is either as a ‘user-in-charge’ (UiC) feature or a ‘no-user-in-charge’ NUiC feature. A UiC feature is one that can drive itself for only part of a journey and therefore requires an individual to be a driver for the remainder of the journey, for example a motorway chauffeur system. A NUiC feature is one that can drive itself for an entire journey and does not require an individual to be capable of taking control, for example a self-driving airport shuttle bus.
- 98 The distinction between UiC and NUiC features set out in subsection (3)(a) will determine the safety requirements for each. For example, a UiC feature can issue transition demands to ensure safe transition of control from the vehicle to a driver (see clause 7). A NUiC feature will require a licensed operator (a no-user-in-charge operator NUiCO – see Chapter 2) to ensure the safe operation of the vehicle. For example, taking responsibility for insurance.
- 99 The description of the locations and circumstances under which a vehicle is authorised to drive itself will ensure that users of a vehicle understand where and when it can safely be used (subsection (4)) and will support the determination of responsibility for a vehicle’s driving behaviour. The locations specified could include places that are not roads but are public places, for example car park areas that are not defined as roads, but in line with clause 3(1)(a) the feature must be intended for use on roads in at least some circumstances in order to limit the scope of authorisation powers. Subsection (5) requires that the description of how a feature is engaged and disengaged must ensure that, where more than one feature is authorised, it is possible to identify which feature, if any, is engaged at any given moment. Clause 4(5) sets out that any question on interpretation about whether a feature is engaged or disengaged will be determined by the authorisation description required by this clause.

#### Clause 5: Authorisation requirements and conditions

- 100 Authorisation is the process by which the Secretary of State will authorise a self-driving vehicle for use in specified operating domains if the vehicle satisfies the self-driving test and if other relevant authorisation requirements have been met (see clause 3 Power to authorise). Each vehicle

must have an ASDE (which will be legally responsible for the way an authorised automated vehicle drives) and must meet other regulatory obligations.

101 This clause gives the Secretary of State the power to establish ‘authorisation requirements’ through regulations. Subsection (1) further sets out two types of authorisation requirement:

- a. Initial authorisation requirements – which must be met before a vehicle can be authorised, and
- b. On-going authorisation requirements – which must be met on an ongoing basis in order for a vehicle to remain authorised.

102 Subsection (2) explains that ongoing authorisation requirements may include a requirement to comply with ‘authorisation conditions’, which are conditions that the Secretary of State may attach to an individual authorisation. Subsection (3) clarifies that authorisation conditions set by the Secretary of State can include anything that could have been in an authorisation requirement made by regulations.

103 Subsection (4) sets out the inter-relationship between authorisation requirements and authorisation conditions. Both requirements and conditions are enforceable in the same way under Part 1 of the Bill.

104 Although authorisation requirements will be made by regulation, the regulator will have the power to set additional authorisation conditions according to the use case and deployment type. Authorisation conditions will be specific to an individual authorisation – which means an individual vehicle, group of vehicles or type of vehicle (see clause 3 Power to authorise). This will allow authorisation requirements and conditions to be tailored – for example, to specific vehicle features and/or specific deployment locations. This will enable a flexible approach to the regulation of this new and developing technology.

## Clause 6: Authorised self-driving entities

105 The ASDE is the legal entity that will be responsible for ensuring an authorised automated vehicle continues to meet the self-driving test, and for meeting other regulatory requirements set out in the authorisation requirements and conditions, which include obligations to provide information to the Secretary of State in their regulatory capacity and ensuring that the ASDE is a suitable organisation with sufficient financial standing and of good repute.

106 Subsection (1) requires the Secretary of State to impose authorisation requirements to ensure that every authorised vehicle with self-driving features has an ASDE at all times. Subsection (2) states that authorisation requirements may include requirements that must be met by the ASDE, for example they could include a requirement for the feature to be able to continue to operate legally even if traffic laws change.

107 Subsections (3) and (4) require the Secretary of State to impose requirements which aim to ensure that an ASDE is responsible for the vehicle continuing to meet the self-driving test. Requirements must also be imposed which aim to ensure that an ASDE is of good repute, good financial standing, and is competent. Subsection (5) is self-explanatory.

## Clause 7: Transition demands

- 108 A self-driving vehicle that can only drive itself for part of a journey will need an individual to drive the vehicle for the remainder of the journey. In these circumstances, the driver becomes a 'user-in-charge' when the vehicle is driving itself (see clause 46 (Meaning of "user-in-charge")). When a vehicle that is driving itself needs to transfer control back to a user-in-charge it must do so safely and must issue a 'transition demand', which is a time-bound request for the user-in-charge to take control of the vehicle.
- 109 Clause 7 requires the Secretary of State to impose authorisation requirements on any vehicle that issues a transition demand in order to ensure that the transition demand is safe. Subsection (2) describes a transition demand and the 'the transition period', which is the time within which a user-in-charge should retake control of the vehicle. Subsection (3) is self-explanatory.
- 110 Further provisions in respect of the immunity granted to a user-in-charge are made in clauses 46 to 52. The user-in-charge does not have immunity from an offence if the act constituting the offence takes place after a transition demand has been issued in accordance with authorisation requirements, and the transition period has ended (see further clause 48 (Exceptions from immunity), and in particular clause 48(1)). Clause 7(3)(d) requires the Secretary of State to impose authorisation requirements ensuring that the vehicle makes a communication at the end of the transition period, alerting the user-in-charge that the period is ending. This will alert the user-in-charge when the immunity is about to cease.

## Clause 8: Power to vary, suspend or withdraw

- 111 This clause provides the Secretary of State with powers to vary, suspend, or withdraw an authorisation. These powers may be exercised with the agreement of the ASDE (subsection (1)), and it is anticipated that this will be the usual course of events, subject to certain exceptions. The powers may also be exercised without the agreement of the self-driving entity, under specified circumstances where a unilateral ground for variation, suspension or withdrawal is satisfied (subsection (2)). These unilateral grounds are: where an authorisation requirement has not been met; where a vehicle has committed a traffic infraction; or where a vehicle no longer meets the self-driving test (subsection (4)). The Secretary of State may also suspend or temporarily vary authorisation where it is suspected that a unilateral ground has arisen and an inquiry is needed to determine if it has (subsection 3). The powers under subsections (2) and (3) are subject to procedural notification requirements set out in Part 1 of Schedule 1 to the Bill, except in cases where urgency requires an immediate variation, suspension or withdrawal, in which case other procedural requirements apply (subsection 7). Subsections (5) and (6) are self-explanatory.
- 112 A variation might be used to amend authorisation conditions, for example extending the locations where a self-driving feature has been authorised under clause 4(3)(c) to be used. Suspension might be used in the event of a serious incident and might apply for a fixed or indefinite period of time – for example until investigations concluded whether continued operation of the vehicles was safe. Suspension might also be used where an ASDE is no longer fit and proper, for example they no longer satisfy the financial standing requirement, and might apply until the breach of the relevant requirement has been remedied. Note that a vehicle with a user-in-charge feature (i.e. a vehicle which can also be driven conventionally), and for which authorisation is suspended, could still be

driven as a conventional vehicle by a human driver. Withdrawal of authorisation may be appropriate where, for example, a vehicle has been decommissioned.

### Clause 9: Further provision about variation, suspension and withdrawal

113 Clause 9 sets out further provisions which apply both to the variation, suspension and withdrawal of authorisation and to the conditions attached to an authorisation, which may be varied, added to or omitted (subsection (1)).

114 Subsections (2) and (3) set out that a variation may be temporary or permanent, and that any variation must be within the boundaries of authorisation – i.e., the original authorisation could have been granted with the requirements as varied.

115 Subsection (4) is self-explanatory.

116 Subsection (5) sets out that when an authorisation is suspended, any vehicle to which the authorisation applied cannot be marketed as an automated vehicle (see clauses 78-79 under Part 4 ‘Marketing restrictions’). It also sets out that there cannot be a ‘user-in-charge’ of a vehicle for which authorisation has been suspended (see clause 46, ‘Meaning of “user-in-charge”’), and further, that a NUiC feature can no longer be considered as authorised for purposes of the offence under new section 34B (see clause 53, ‘Use of vehicle without driver or licensed oversight’). A vehicle for which authorisation has been suspended can only be driven as a conventional vehicle; the human driver is therefore responsible for the vehicle at all times and any immunity that applies to a user-in-charge does not apply. Under these circumstances the driver must understand that their responsibilities with respect to the behaviour of the vehicle have resumed. This is considered in subsection (8) (see below).

117 Subsection (6) sets out that a ‘relevant authorisation measure’ takes effect from the moment the notice is issued to the ASDE or at a time specified within the notice itself. Subsection (7) clarifies that a ‘relevant authorisation measure’ is: the variation, suspension or withdrawal of an authorisation; a reversal of a variation; the lifting of a suspension; or restoration of a withdrawn authorisation.

118 Subsection (8) requires the Secretary of State to ensure that authorisation requirements are designed in such a way that, in the event of variation, suspension or withdrawal, they reduce the likelihood of an individual unwittingly doing anything that is no longer in scope of authorisation. For example, to reduce the chance of an individual using a self-driving feature when it is no longer legal to do so a feature might be deactivated remotely.

### Clause 10: Register of authorisations

119 Clause 10 requires the Secretary of State to keep a public register of authorisations (subsection 1). An authorisation will only take effect when it is entered in the register (subsection 2).

120 The register will record the ASDE for each authorised self-driving vehicle (clause 10(3)). Clause 10 (4) requires the Secretary of State to update the register to accurately reflect any relevant authorisation measure, which means any variation, suspension or withdrawal of authorisation, or reversal of a variation, lifting of a suspension or restoration of an authorisation.

## Clause 11: Regulations about authorisation procedure

121 Clause 11 gives the Secretary of State the power to make regulations about the procedure for granting an authorisation, as well as for varying, suspending or withdrawing an authorisation where this is done with the agreement of the ASDE. The regulations may cover: the form and content of an application, the fees payable for an application for authorisation, the examination of vehicles, the notification of decisions, and appeals against decisions.

## Chapter 2: Licensing of operators for vehicle use without user-in-charge

### Clause 12: Power to establish operator licensing scheme

122 Subsection (1) provides power to the Secretary of State to make regulations to establish a licensing scheme for operators of no-user-in-charge (NUiC) vehicles (vehicles which only carry passengers or freight and do not need to have a driver or a user-in-charge). It enables the Secretary of State to place requirements on operators of NUiC vehicles, and to keep a register of operators.

123 Subsection (2) sets out the definition of a no-use-in-charge journey. Subsection (3) sets out that a NUiC journey is regarded as being ‘overseen’ by a licensed operator if the operator is subject to a requirement to do so under licensing conditions.

124 Subsections (4) and (5) require the Secretary of State to impose requirements which aim to ensure that a licensed NUiC operator should have general responsibility for detecting and resolving issues during a no-use-in-charge journey overseen by the operator. Requirements must also be imposed which aim to ensure that a licensed NUiC operator is of good repute, good financial standing, and is competent.

### Clause 13: Further provision about operator licensing

125 Clause 13 sets out further details in relation to operator licensing regulations. Regulations may be made in relation to the granting, variation, renewal, expiry, suspension or withdrawal of a license (subsection (2)). Regulations may also cover the detailed requirements for a license application as well as for: the fees for application or renewal of licenses; the notification of decisions; and appeals against decisions (subsection (3)). Regulations may also include conditions that a licensed operator must comply with (subsection (4)).

126 Clause 13(3)(e) enables the Secretary of State to confer operator licensing functions on the Traffic Commissioners. Traffic Commissioners currently have responsibility for the licensing and regulation of those who operate conventional heavy goods vehicles, buses and coaches, and the registration of local bus services. They are appointed by the Secretary of State and operate at arm’s length from the Department for Transport as independent regulators. The provision in this clause is intended to give the Secretary of State the flexibility to align the regulation of licensed operators of authorised automated vehicles with that of conventional vehicles in the future, should this be considered appropriate. Additionally, paragraph 8 of Schedule 1 enables the Secretary of State to transfer the power to impose civil sanctions to the Traffic Commissioners.

## Chapter 3: Provision of information by regulated bodies

### Clause 14: Collecting and sharing of information

- 127 The safety assurance and regulation of self-driving vehicles will rely heavily on information provided by regulated bodies. Clauses 5 and 12 give the Secretary of State powers to set – by regulations – authorisation and operator licensing requirements respectively.
- 128 This clause clarifies that the requirements for authorisation and operator licensing may include the collection and sharing of information by an authorised self-driving entity (ASDE) and no-user-in-charge (NUiC) operator respectively (subsections (1) and (2)).
- 129 Subsection (3) allows requirements to cover sharing of information with the Secretary of State, other public authorities or private businesses. For example, an ASDE may be required to share information with insurers to enable insurance claims to be properly resolved. Subsection (4) states that an information-sharing requirement must specify the purpose for which information is being shared. This is to restrict improper sharing or use of data for purposes other than those intended.

### Clause 15: Nomination of individuals

- 130 Clause 15 provides for the identification of a nominated individual by an ASDE and a licensed operator, to be responsible for the information provided to the Secretary of State. Clause 15(3)(a) requires that a nominated individual must consent to the nomination. Clause 15(3)(b) requires any regulations relating to an ASDE or licensed operator’s nominated individual must also consider the circumstances under which an individual would cease to be nominated, for example if the individual moves to a different organisation. This is to ensure that a nominated individual is not held unfairly responsible for information over which they had no responsibility.
- 131 The nominated individual will share criminal liability for offences committed by the regulated body relating to the provision of information but with a defence that they took all reasonable precautions and exercised due diligence (see clauses 24 to 26).

### Clause 16: Purpose for which notices may be given

- 132 Clause 16 sets out the regulatory purposes for which the Secretary of State may request information by way of a notice (an “information notice” or “interview notice” see clauses 17 and 18).
- 133 A notice may be issued for “investigative purposes”, which means information is requested in order to investigate compliance with regulatory requirements. The “investigative purposes” are divided into domestic purposes and international purposes.
- 134 Domestic purposes include requesting information from an ASDE or licensed operator in order to: assess whether they have met the regulatory requirements placed on them; to investigate a traffic infraction by a vehicle for which they are responsible; to assess whether a vehicle still meets the self-driving test; and to investigate suspected offences. These offences include providing false information, or withholding information, that is relevant to vehicle safety.
- 135 International purposes include requesting information in order to share it with authorities in another country who perform similar regulatory functions in respect of automated vehicles.



Information notices may be issued upon the request of an overseas authority where the information is likely to assist the overseas authority in performing their regulatory duties in relation to the ASDE or licensed operator. The sharing of information with an overseas authority is subject to restrictions to prevent them using the information for any purpose other than the purpose for which it is shared or from sharing it further without the consent of the Secretary of State (Clause 22(3)).

### Clause 17: Power to issue information notice

136 Subsection (1) of clause 17 gives the Secretary of State the power to issue information notices to a regulated body (ASDE or licensed operator) if it is considered appropriate for any investigative purposes (as described in clause 16). Subsections (2) and (3) are self-explanatory.

137 Subsection (4) provides further information on the form and manner of the information. For example, it specifies the information notice can require information in various forms, or require the attendance of an individual at a particular time or place to provide the information. For example, if information is currently held in an extremely large database, the information notice could request a summary document.

138 Subsection (5) requires the information notice to explain the meaning of compliance regarding the attendance of individuals (section 19(5)) and the consequences on non-compliance with the notice which could include both fines and imprisonment of individuals (as per section 20 Offences of non-compliance).

### Clause 18: Power to issue interview notice

139 This clause provides the Secretary of State with the power to issue an interview notice to a regulated body (ASDE or licensed operator) if it is appropriate to do so for any investigative purpose (as described in clause 16). The clause explains that an interview notice is one which requires the regulated body to ensure that an individual attends at a particular place and time to answer questions. The interview notice must indicate the intended subject matter of the interview. It also requires the interview notice to explain the meaning of compliance regarding the attendance of individuals (section 19(5)) and the consequences on non-compliance with the notice which could include both fines and imprisonment of individuals (as per section 20 Offences of non-compliance).

### Clause 19: Notices requiring individual attendance

140 This clause sets out that when an information or interview notice has been issued requiring the presence of an individual, that the notice can either request a particular individual or request a class of individuals. The identified individuals must be carrying out or have carried out paid work for the regulated body in question, but do not need to have any further connection to the United Kingdom (subsections (3) and (4)). Subsection (5) defines what compliance with the notice looks like in terms of reasonable steps taken to achieve the attendance of individuals and to ensure they are able to answer expected questions. This is to avoid an ASDE or licensed operator being prosecuted for non-compliance due to circumstances beyond their control. Subsection (6) allows for attendance of individuals to be by electronic means such as an online meeting.

## Clause 20: Offences of non-compliance

141 Subsection (1) sets out that it is an offence for a regulated body (an ASDE or licensed operator) to fail to provide the information requested in an information notice, provide information that is false or misleading or fail to comply with an interview notice. Subsection (2) is self-explanatory.

142 Subsection (3) relates to individuals rather than regulated bodies. It sets out that where an individual is identified in an information notice and has been made aware of the contents of the notice, that individual commits an offence if, without a reasonable excuse, they fail to: attend at the time and place specified in the notice; provide the information required by the notice; or if they provide false or misleading information. Subsection (4) describes a similar offence for individuals named in an interview notice.

143 Subsection (5) sets out that a person commits an offence if they destroy, suppress or alter the requested information with the intention of preventing accurate information being provided to the Secretary of State. This also applies if the person causes or permits the destruction, suppression or alteration of information. For the purposes of this clause, a 'person' can be an organisation (ASDE or licensed operator) or a natural person.

144 Subsection (6) clarifies that the reference to information required by an information notice can include anything that the information is recorded on. The subsection also sets out that it is an offence to destroy anything that is needed for the information to be made legible. For example, equipment that may be needed to 'translate' computer coding into an understandable format.

145 Subsection (7) sets out the penalty a person is liable for if they are found to have committed an offence set out in this clause. A person can be an organisation (ASDE or licensed operator) or a natural person.

## Clause 21: Enforcement by court

146 This clause is self-explanatory.

## Clause 22: Use of information obtained

147 This clause sets out the parameters within which the information obtained through an information or an interview notice can be used. Subsections (2) and (3) are self-explanatory.

148 Subsection (4) allows the Secretary of State to also use information to fulfil the general monitoring duty set out in clause 38, including the assessment of whether the general performance of self-driving vehicles is consistent with the statement of safety principles described in clause (2).

149 Subsections (5) and (6) prohibits the information provided in a statement in response to an information or interview notice from being used by, or on behalf of, the prosecution as evidence in criminal proceedings against the person who supplied the information. Subsection (7) provides exceptions to this prohibition. These exceptions relate to offences such as providing false or misleading information (clause 24), or offences relating to false statements under other legislation such as the Perjury Act 1911. Subsection (8) is self-explanatory.

## Clause 23: Supplementary provision

150 Subsection (1) is self-explanatory.

151 Subsection (2) sets out that under Clauses 16 to 23 (which relate to information or interview notices) any entity who is no longer an ASDE or licensed operator will still be treated as one, and be required to comply with information notices and interview notices in relation to anything that occurred, and will be held responsible for their actions, for the time during the time in which they were an ASDE or licensed operator. For example, if an authorisation was suspended or withdrawn the ASDE would still be required to comply with information or interview notices.

## Clause 24: False or withheld information relevant to vehicle safety

152 Subsections (1) to (4) create offences in relation to the supply of regulatory information that is likely to have safety implications for automated vehicles. They are broken down into offences of supplying false or misleading information (whether voluntarily or in response to a requirement), omitting to supply information that is required, and intentional destruction, alteration or suppression. The first two may be committed only by a current or aspiring ASDE or licensed operator, whereas the third can be committed by anyone.

153 Subsection (5) clarifies that the reference to information can include anything that the information is recorded on. The subsection also explains that it is an offence to destroy anything that is needed for the information to be made legible. For example, equipment that may be needed to 'translate' computer coding into an understandable format.

154 Subsection (6) explains that information is considered relevant to the safety of an automated vehicle's operation (as set out in clause 24) if it would affect a reasonable person's assessment of how safely a vehicle would travel.

155 Subsection (7) supplies a defence of due diligence.

156 Subsection (8) sets out what penalties a person is liable for if they are found to have committed an offence set out in this clause.

## Clause 25: Aggravated offence where death or serious injury occurs

157 Clause 25 provides for an aggravated offence where false or withheld information would have disclosed a "heightened risk" that a vehicle in which an authorised automation feature is engaged would be involved in a specific kind of dangerous incident, and the vehicle with that feature engaged has been involved in that kind of incident resulting in an individual being killed or seriously injured. Further explanation of these is given in subsection (3).

158 Subsection (1) is an offence of a regulated body, the ASDE or licensed operator, and relates to the provision of false or misleading information either voluntarily or in response to a regulatory requirement or information notice. Subsection (2) relates to any person (which could be a regulated body or any natural person) who destroys, suppresses or alters information (or permits that to happen) with the intention of preventing provision of accurate information in response to a requirement or notice.

159 Subsections (4) to (6) are self-explanatory.

### Clause 26: Liability of nominated individual

160 To ensure vehicle safety, the information provided to the Secretary of State must be accurate and relevant information must not be withheld. Having a designated individual responsible for disclosures to Government will engender a culture of accountability. This individual will need to ensure that requirements for disclosure to government are complied with and clause 15 makes provision for the identification of this individual.

161 This clause sets out that, if an ASDE or licensed operator commits an offence in relation to the provision of information (as set out in clauses 20 and 24), the ‘nominated individual’ in place at the time of the offence also commits the offence.

162 Subsection (2) clarifies that, for the purpose of the offence under subsection (1), a nominated individual is the individual who stands as the nominated person of an ASDE under an authorisation requirement or who stands as the nominated person of a licensed operator under licensing regulations. This ensures that a nominated individual is not liable except to the extent identified in the authorisation requirement or licensing regulations.

163 Subsection (3) disapplies the due diligence defences set out in Clauses 20 and 24 because they apply to regulated bodies (and not individuals). Instead, subsection (4) introduces a due diligence defence for the nominated individual. It sets out that it is a defence for a nominated individual charged with an offence if the individual can prove that they took all reasonable precautions and exercised due diligence to avoid committing the offence.

### Clause 27: Liability of senior manager

164 Whilst the primary responsibility for compliance with obligations to disclose information rests with the ‘nominated individual’, senior managers also have a role in engendering a culture of accountability.

165 Subsection (1) sets out that a relevant senior manager will be guilty of a criminal offence where the ASDE or licensed operator commits an offence and the manager consented or connived to commit the offence. Subsections (2) to (4) provide expanded definitions and are self-explanatory.

## Chapter 4: Powers to investigate premises used by regulated bodies

### Clause 28: Warrants for entry, search and seizure

166 This clause enables the Secretary of State to obtain a warrant to enter the premises of an authorised self-driving entity (ASDE) or licensed operator to obtain information that is considered necessary for the Secretary of State’s investigative functions and which has not been provided when requested by the Secretary of State, or there is reason to believe it will not be provided when requested.

167 Subsection (1) of this clause provides the power for a justice of the peace to grant a warrant to the Secretary of State authorising the exercise of entry, search and seizure powers. A warrant can only be granted for specific reasons and if certain conditions are met.

- 168 The conditions are set out in subsection (2). They are that: the premises subject to the warrant are being used by the regulated body; it is appropriate to grant the warrant for investigative purposes; and is it necessary to grant it for reasons set out in subsection (3).
- 169 The reasons to grant a warrant, as set out in subsection (3), are that an information or interview notice already issued has not been complied with, or there is a reason to believe that if an information or interview notice were to be issued, it would not be complied with. A further reason is if an information or interview notice which requires individual attendance at interview has been issued, but does not obtain the information sought. The final reason is if the information need is too urgent to wait for an information or interview notice to be issued, for example in the event of a serious collision.
- 170 Subsection (4) places a condition on the justice of the peace that they can only be satisfied that the conditions in subsection (2) have been met based on evidence given on oath by or on behalf of the Secretary of State. Subsection (5) states that a reference to a justice of the peace includes a sheriff in Scotland.
- 171 Subsection (6) clarifies that any person who is no longer an ASDE or a licensed operator is still considered as one if the warrant relates to a time period when the person was a self-driving entity or a licensed operator.

#### Clause 29: Powers exercisable under warrant

- 172 This clause specifies the powers that can be exercised under a warrant issued under clause 28. Subsection (1) lists the powers, which include the powers to enter and search the premises, and to examine, seize or record any documents, equipment or other items found on the premises. The powers also require a person in the premises to provide information and assistance in order to facilitate inspection, seizure or recording, and to allow better understanding of the documents, equipment and other material. The powers also allow copies of the documents to be made or assess information away from the premises to ensure that it can be read in a legible form.
- 173 Subsection (2) states that a person exercising the powers under this clause may only do so for the purposes of investigating regulatory compliance. It also states that such a person may only seize and remove something from the premises if a recording of it would be insufficient.
- 174 Subsection (3) explains that a warrant issued under clause 28 is to be executed on behalf of the Secretary of State by a person authorised to do so by the Secretary of State. Subsection (4) provides the authorised person with the power to take other people, equipment and materials onto the premises to help exercise the powers set out in this Clause. Subsection (5) provides that any person accompanying the authorised person may exercise the same powers, under the supervision of the authorised person.
- 175 Subsection (6) sets out that an authorised person exercising the powers under the warrant may use reasonable force if necessary to enter, search, examine, seize and record in relation to the premises and its contents. However, while an authorised person has the power (in subsection (1)) to require a person on the premises to provide information or assistance, they may not use force in the exercising of this power.

176 Subsection (7) restricts the use of the powers under the warrant to: a reasonable hour; only within a period of one month beginning on the day the warrant was issued; and only one occasion, unless specified in the warrant.

177 Subsection (8) sets conditions on the person executing the warrant under clause 28, including that they must be accompanied by a constable; give a copy of the warrant to any person appearing to be in charge of the premises at the earliest opportunity; and provide proof of identity on request by any person appearing to be in charge of the premises.

178 Subsection (9) requires the Secretary of State to arrange for publication of information on the exercise of these powers.

### Clause 30: Offences of impeding execution of warrant

179 Subsection (1) sets out that an offence is committed if a person intentionally obstructs a person in the exercise of the powers in clause 29; fails to comply without reasonable excuse to requirements made on them; or knowingly makes a statement that is false or misleading. Subsection (2) sets out that a person who commits an offence under subsection (1) is liable to a fine or imprisonment for a term not exceeding 2 years.

### Clause 31: Seizure of items

180 This clause sets out the requirements of an authorised person exercising the powers in clause 29 who seizes and removes a document or other item from the premises of a regulated body. Subsection (2) requires the authorised person, on the request of a person in charge of the premises, to give a receipt for the item that is seized and give a copy of any document that is readily capable of being copied. Subsection (3) sets out that the seized item may be retained for so long as is necessary.

181 Subsection (4) sets out that a person acting on behalf of the Secretary of State may examine any item that has been seized and may use reasonable force if necessary to do so. They may also record information from the item.

182 Subsection (5) gives the Secretary of State the power to make regulations setting out how to deal with items that have been seized. Subsection (6) sets out that these regulations may allow the retention or use of seized items for purposes other than regulatory purposes and may allow the seized item to be given to someone other than the owner. The regulations may also allow for the destruction of the seized item.

### Clause 32: Return of warrant

183 This clause requires the person who executes a warrant under clause 28 to return to the Court from which it was issued. This needs to be done as soon as is reasonably possible and a summary of the powers executed under clause 29 must be provided to the court. The warrant also needs to be returned to the court if it is not executed, with a statement that it was not executed.

### Clause 33: Use of information obtained

184 This clause is to ensure consistency in the use of information obtained by different legal means. Subsection (1) sets out that any information obtained through the use of a warrant can only be

used for the same purposes for which the original information was requested (by way of an information or interview notice).

185 Subsection (2) sets out that the provisions in clause 22, which relate to the use of information as evidence in criminal proceedings, also apply to any statement made by a person on a premises that has been entered under warrant. They apply in the same way that they would apply to the provision of information in response to an information or interview notice.

## **Chapter 5: Civil sanctions against regulated bodies**

### **Clause 34: Compliance notices**

186 A compliance notice requires a regulated body (ASDE or licensed operator) to comply with the requirements placed on it.

187 Subsection (1) gives the power to the Secretary of State to issue a compliance notice to a regulated body if the Secretary of State is satisfied that a relevant requirement is not or has not been met. Subsection (2) gives the power to the Secretary of State to issue a compliance notice to an authorised self-driving entity (ASDE) if they are satisfied an automated vehicle has committed a traffic infraction while the entity was responsible for it. Subsection (3) disapplies subsection (2) if the commission of the traffic infraction was wholly caused by the failure of a licensed operator to comply with a relevant requirement as a failure of that type already falls within subsection (1).

188 Subsections (4) to (8) are self-explanatory.

### **Clause 35: Redress notices**

189 A redress notice requires a regulated body (ASDE or licensed operator) to rectify, mitigate or compensate for any loss, damage, inconvenience or annoyance to road users as a result of an ASDE or licensed operator not meeting the requirements placed on them.

190 Clause 35 (1) gives the Secretary of State the power to issue a redress notice to a regulated body if the Secretary of State is satisfied that a relevant requirement is not (or has not been) met by a body and as a result users of roads in Great Britain have suffered loss, damage, inconvenience or annoyance. Subsection (2) specifies that the Secretary of State may issue a redress notice when an authorised automated vehicle has committed a traffic infraction which resulted in users of roads in Great Britain suffering loss, damage, inconvenience or annoyance. Subsection (3) disapplies subsection (2) if the Secretary of State is satisfied that the traffic infraction was wholly committed by a licensed operator.

191 Subsections (4) and (5) explain that a redress notice is one which requires action to be taken by the person to whom the notice is issued, and set out the actions that may be specified in a notice. The actions include any actions that the Secretary of State considers appropriate in order to rectify, mitigate or compensate for the loss, damage, inconvenience or annoyance that has been suffered. Subsection (8) clarifies that taking action can also mean refrain from taking action, for example ceasing to operate in a particular way.

192 Subsection (6) sets out what the redress notice must include: reasons for issuing the notice; and specifying the time by which, or the period during which the actions must be taken.

193 Subsection (7) allows persons who are owed money by a regulated body as a result of a redress notice to recover that money as a civil debt.

194 Subsection (9) clarifies the meaning of ‘users of roads’ in the context of this clause.

### Clause 36: Monetary penalties

195 Clause 36 provides the Secretary of State with the power to issue monetary penalties to a regulated body if satisfied that, as set out in subsection (1), a relevant requirement is not (or has not been) met by the body or the body has failed to comply with any information, interview, compliance or redress notices.

196 Subsection (2) provides the Secretary of State with the power to issue a monetary penalty notice to an ASDE if an authorised vehicle has committed a traffic infraction when the entity was responsible for it. Subsection (3) disapplies subsection (2) if it appears that the traffic infraction was wholly caused by a failure of the licensed operator to comply with relevant requirements.

197 Subsection (4) clarifies that the monetary penalty notice requires a regulated body to pay a monetary penalty of a sum specified in the notice. Subsections (5) and (6) allows for the penalty notice to specify a daily sum to be paid if a failure is, or may be, a continuing one. This would begin on the day after the notice is issued and end on the day the failure ends, or earlier if specified in the notice.

198 Subsection (7) sets out what must be included in the penalty notice: an explanation for the reason for issuing the notice; and the time by which and the manner in which the penalty must be paid. Subsection (8) clarifies that if the monetary penalty is not paid in time, the penalty carries interest. This subsection also gives the Secretary of State the power to recover the penalty (with interest) as a civil debt.

199 Subsection (9) provides the Secretary of State with the delegated power to set out in regulation a maximum sum for a single penalty and an ongoing daily penalty. Subsection (10) allows the regulations to determine the sum by reference to the turnover of the regulated body or other entities, or undertakings that are connected with the regulated body.

200 Subsection (11) clarifies that the regulated body is not liable both to conviction of an offence under clause 24 (false or withheld information relevant to vehicle safety) or 25 (aggravated offence where death or serious injury occurs) and to a monetary penalty under this section. This is to ensure the regulated body is not penalised for the same offence twice.

### Clause 37: Supplementary provision

201 This clause specifies the supplementary provisions that are made relating to the issuing of compliance notices, redress notices or monetary penalties.

202 Subsections (1) and (3) are self-explanatory.

203 Subsection (2) sets out that the Secretary of State may cancel or vary a compliance notice, redress notice, monetary penalty notice or costs notice by issuing a further notice. Any variation must not make the notice more onerous.



204 Subsection (4) sets out that in Clauses 34 to 37 (which set out the civil sanctions) any entity who is no longer an ASDE or licensed operator will still be treated as one, and be required to comply with these civil sanctions in relation to anything that occurred, and will be held responsible for their actions, for the time during the time in which they were an ASDE or licensed operator.

## **Chapter 6: Other regulatory powers and duties**

### **Clause 38: General monitoring duty**

205 This clause places a requirement on the Secretary of State to ensure that the general performance of authorised automated vehicles is monitored and assessed in a way that is effective and proportionate, as opposed to the specific performance of individual vehicles. This requirement requires an assessment of whether performance of the self-driving fleet is consistent with the Statement of Safety Principles made under clause 2.

206 Subsections 38 (3) and (4) require that the Secretary of State publishes a yearly report setting out their conclusions from the monitoring and assessment of self-driving vehicle performance. The government expects this to follow a similar format to that already done by the Department for Transport when analysing overall road safety statistics.

### **Clause 39: Duty with respect to incidents with potential regulatory consequences**

207 This clause places a requirement on the Secretary of State to investigate where an authorised automated vehicle is suspected to have been involved in an incident in respect of which enforcement powers (sanctions) might be exercised. Subsections (2) and (3) provide clarification of the meaning of certain terms used in clause 39 relating to what incidents are considered as “relevant” and what investigative and enforcement powers are referred to here.

### **Clause 40: Power to require reports from police and local authorities**

208 This clause supports the duty in clause 39 to investigate automated vehicle incidents that may invoke regulatory consequences. It permits the Secretary of State to make regulations requiring a chief officer of police and the other authorities specified in clause 40(3) to report relevant incidents (as defined in Clause 39) that occur within their police force or authority area. The description of the types of incidents that the police or authority should report will be set out in regulations.

209 Subsection (4) states that regulations made under this clause must be drafted with the intention that only incidents with potential regulatory consequences will be reported. This aims to restrict the reporting requirement to only those reports necessary for investigating the need for regulatory sanctions and hence avoid an undue burden on police and the specified authorities.

210 Subsections (5), (6) and (7) are self-explanatory.

## **Chapter 7: Supplementary provision**

### **Clause 41: Notices**

211 This clause places a requirement on the Secretary of State to ensure a postal address and electronic address for the authorised self-driving entity (ASDE) and licensed operator are available at all times for the purpose of issuing a notice. The clause clarifies the meaning of an electronic address.

The clause also sets out provisions to deem a notice to have been issued and received if served by post or electronically at the given address.

#### Clause 42: Protection of information

212 This clause protects information obtained by a person (which may include insurers or other private businesses) as a result of authorisation requirements, further to the Secretary of State's exercise of their investigative powers or further to regulations under section 40 (subsection (1)). Subsection 2 is self-explanatory, defining the term "the recipient". Subsection (4) makes it an offence for the recipient of such information to use it for purposes other than those for which it was obtained; or disclose it to another person except as authorised by regulations made by the Secretary of State under subsection (3).

213 Subsection (5) sets out defences to the unlawful disclosure offence including consent from the person from whom the information was obtained, reasonable belief in the lawfulness of the disclosure or that the information had already been lawfully disclosed. Subsection 6 is self-explanatory.

214 Subsection (7) protects commercially sensitive information by providing a presumption that it should be excluded from any disclosures authorised in this Part.

#### Clause 43: Fees

215 This clause relates to fees payable in relation to the authorisation procedure (see clause 6 (5)) and in relation to the grant, retention or renewal of an operator license (see clause 13(3)(b)(ii)). This clause sets out that fees may be determined by reference to costs incurred, or likely to be incurred by the Secretary of State but must not duplicate costs already taken into account in any other fee under this Part.

#### Clause 44: Interpretation

216 Subsection (1) clarifies the meaning of terms used in this Part of the Bill. The clarifications are self-explanatory.

217 Subsection (2) sets out what it means for an authorised automated vehicle to 'commit a traffic infraction'. A traffic infraction is committed if the vehicle does anything that would – if it were done by a human – amount to an offence or cause a person to become liable to a road traffic penalty charge. Subsections (3) to (5) are self-explanatory.

#### Clause 45: Related amendments

218 This clause clarifies that Schedule 2 of the Bill makes amendments to related legislation in connection with Part 1 of the Bill.

## Part 2: Criminal liability for vehicle use

### Chapter 1: Legal position of the user-in-charge

#### Clause 46: Meaning of "user-in-charge"

219 This clause sets out that references to an individual as a "user-in-charge" in Part 2 of this Bill mean that the vehicle is an authorised automated vehicle with an authorised user-in-charge feature; that

the feature is engaged and that the individual is in the vehicle, and is in a position to exercise control of the vehicle, but is not controlling it. A driver becomes a user-in-charge when they engage a user-in-charge feature.

#### Clause 47: User-in-charge not liable for manner of driving

220 This clause introduces an immunity from offences arising from how a vehicle drives itself for the user-in-charge, or where the vehicle hands back control to the driver in a situation where careful and competent driving could not have avoided an offence being committed. In subsection (4), it also provides some examples to indicate which offences are and are not due to how the vehicle is driven.

221 Where a vehicle has been authorised for use as self-driving, it has been deemed capable of safely and lawfully driving itself without the need for human monitoring of the road environment with a view to safety critical intervention. If the vehicle was authorised for use with a user in charge (who must be within the vehicle and in a position to control it, hold a valid driving license and remain in a fit state to drive), it is appropriate to ensure that the user in charge is not held responsible for the behaviour of the vehicle when it is driving itself – particularly as there are many strict liability offences relating to how the vehicle behaves on the road.

#### Clause 48: Exceptions from immunity

222 This clause specifies situations where the user-in-charge immunity in clause 47(1) does not apply.

223 Subsection (1) explains that the user-in-charge immunity ceases to apply when the period for responding to a valid transition demand issued by the vehicle expires. As defined in clause 7(2), a transition demand is a demand for the user-in-charge to assume control of the vehicle by the end of a period of time beginning with the communication of the demand. The vehicle will issue a transition demand when situations arise which require human intervention, for example when leaving the road type on which a self-driving feature may be engaged. The consequence of the immunity ceasing at the end of the transition period is that the driver is responsible for the outcome of not taking back control when properly requested to do so. Clause 7(3)(d) will ensure that the vehicle communicates to the driver when the transition period has ended.

224 Subsection (2) ensures, however, that the driver will not be liable if the vehicle does not behave in accordance with agreed authorisation requirements regarding how it will handle situations where the user-in-charge does not take control within the transition period. The subsection clarifies that the cessation of the immunity following a transition demand does not apply if the act causing the offence is committed by the vehicle behaving unpredictably and in breach of agreed authorisation requirements.

225 Subsection (3) provides that the immunity does not apply in relation to parking offences or offences arising from the position where the vehicle is stopped or left stationary where the user in charge has voluntarily left the vehicle. This clarifies that it is the user-in-charge's responsibility upon leaving the vehicle to ensure that it is parked or stopped lawfully.

226 Subsection (4) provides that the immunity does not apply in relation to offences arising from the vehicle's entering or remaining on a particular road or other area without a required toll or charge

being paid. This clarifies that the user-in-charge will need to verify whether the route followed incurs any toll or charges.

227 Subsections (5) and (6) clarify that the immunity in clause 47(1) does not apply to an offence that has arisen when the vehicle is driving itself outside of an authorised location or circumstance due to deliberate interference with vehicle equipment by the user-in-charge, or another person where the user-in-charge knows of the interference. This is to prevent tampering with vehicle equipment to enable use of the self-driving technology in inappropriate and potentially unsafe circumstances.

#### Clause 49: User-in-charge otherwise liable as driver

228 This clause clarifies that for the purposes of any enactment (as defined in clause 44(1)) the user in charge is to be considered the driver of and driving the vehicle, although benefiting from the immunity provided in clause 47. It also clarifies that an individual continues to be deemed a “driver” for the purposes of any enactment even if they move out of a position where they can control the vehicle, and therefore cease to be a user-in-charge since the conditions in clause 46 are no longer met. Their status as a deemed driver continues until the point at which someone else assumes the role of user in charge or the user-in-charge feature is disengaged.

#### Clause 50: Power to change or clarify existing traffic legislation

229 Clauses 47 and 48 describe offences which are within and outside the scope of the user in charge immunity. However, due to the number of traffic offences it is not possible to provide an exhaustive list on the face of the Bill and, in the absence of clarity in legislation it will be for the courts to determine if specific offences not mentioned in these clauses fall within the immunity. Clause 50 provides the Secretary of State the power to make amendments to traffic legislation passed on or before the “relevant day” (“relevant enactments”) to change or clarify how this legislation applies to a user in charge, to provide greater clarity on the responsibilities of the user in charge and the ASDE. Subsection (2) clarifies the meaning of “relevant enactment”. “Relevant day” is defined in clause 52(5) as the final day of the session that this Bill is passed.

#### Clause 51: Supplementary provision

230 This clause makes supplementary provision in relation to clauses 47 to 50.

231 Subsection (1) establishes a presumption that an enactment passed or made after the Bill is passed is to be read as subject to clauses 47 to 49, unless there is a clear intention to the contrary. “Enactment” is defined in clause 52(3) and includes subordinate legislation within the meaning of the Interpretation Act 1978, section 21(1), and Welsh and Scottish primary and subordinate legislation.

232 Subsections (2) and (3) set out how the burden of proof applies in criminal proceedings in relation to clauses 47(1) and 48(1) and (2). Subsection (2) provides that the person seeking to rely on the user-in-charge immunity in clause 47(1) bears the burden of proving that the individual concerned was the user-in-charge at the relevant time, and that the exception in clause 48(1) regarding transition demands does not apply. Subsection (3) clarifies that a person who seeks to rely on clause 48(2) must adduce sufficient evidence to raise an issue, in which case clause 48(2) is then to be taken to apply unless the contrary is proved beyond reasonable doubt.

233 Subsection (4) and (5) clarify that if an individual could not reasonably be expected to know of any variation, suspension or withdrawal of the authorisation of the self-driving feature of a vehicle and continues to use the vehicle as if the previous authorisation remains, then clauses 47 to 49 and regulations under clause 50 apply as if the variation, suspension or withdrawal had not occurred.

### Clause 52: Interpretation

234 This clause explains that certain definitions set out in clause 44 in Part 1 also apply to this Chapter of Part 2. It also clarifies the meaning of the “relevant day” mentioned in clause 50 and that any conduct giving rise to liability to a penalty charge is to be regarded as amounting to an offence..

## Chapter 2: Offences

### Clause 53: Use of vehicle without driver or licensed oversight

235 This clause adds two new sections before section 35 of the Road Traffic Act 1988. The first inserted section 34B introduces an offence of using a vehicle without a person in control or licensed oversight. If the vehicle has no authorised no-user-in-charge (NUiC) feature engaged and/or if the journey is not overseen by a licensed no-user-in-charge operator (NUiCO), section 34B(1) makes it an offence for a person to use, or cause or permit another person to use the vehicle on a road or in a public place without an individual exercising or in a position to exercise control of the vehicle. The purpose is to ensure that there is a human or corporate entity responsible for the operation of the vehicle at all times. Section 34B(3) introduces a defence to this offence if the person could not reasonably have been expected to know this was the situation.

236 The second inserted section, section 34C, introduces aggravated offences where a person commits an offence under s 34B and the vehicle causes the death or serious injury of another person.

237 These new offences prevent use of NUiC technology unless it has been authorised and is overseen by a licensed operator. It also prevents use of an authorised user-in-charge feature where the user-in-charge has moved out of a position to be able to exercise control of the vehicle, for example by moving to an alternative seat.

238 In the case of vehicles without authorised self-driving technologies and appropriate oversight, a human driver is still required. That driver remains responsible for exercising proper control of the vehicle and any feature could only be used as driver assistance technology.

239 Clause 53(2) inserts the new offences into Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988.

240 Clause 53(3) refers to amendments made in Schedule 3 applying existing legislation to the provisions of this Clause.

### Clause 54: Dangerous use etc

241 Subsection (1) adds three new sections to the Road Traffic Act 1988. New section 3B provides for the user-in-charge immunity created by Section 47 to apply to the offences in sections 1 to 3A of that Act. New section 3C creates an offence related to the use of automated vehicles in dangerous state, and new section 3D an offence of causing death, or serious injury by use of automated

vehicles in a dangerous state.

242 Subsection (2) inserts a new section 22B into the Road Traffic Act 1988. New section 22B provides that a person commits an offence where a person commits an offence under the Road Traffic Act 1988 section 22A (relating to causing anything to be on or over a road or interference with a vehicle or traffic equipment) that causes an authorised automated vehicle to commit a traffic infraction and thereby kill or seriously injure someone. Subsection (3) provides that new section 22B does not extend to Scotland. This is because, as noted by the Law Commissions in their review, Scots law already covers aggravated conduct (general common law offences of malicious mischief or culpable and reckless conduct and culpable homicide).

243 Clause 54(3) places these four new offences in Part 1 of Schedule 2 to the Road Traffic Act 1988 in the appropriate places.

### Clause 55: Amendment of tampering offence

244 The tampering offence in section 25 of the RTA 1988 presently only covers tampering with the brake or other parts of the vehicle's "mechanism" on a road or parking place provided by a local authority. This offence is designed to prevent unlawful interference with vehicles. Clause 55 amends section 25 of the RTA 1988 so that the offence expressly includes tampering with any equipment of the vehicle, including any software installed. This amendment is intended to counter any malicious interference with a self-driving vehicle and does not prevent legitimate modifications to a vehicle.

### Clause 56: Amendment of offence concerning fitting of unsuitable parts

245 Section 76 of the RTA 1988 contains offences relating to the fitting and supply of vehicle parts where use of the vehicle, with the part fitted, on the road either contravenes construction and use requirements or creates a danger of injury to any person. This amendment ensures the offence also covers the installation of software, or otherwise making software interact with a vehicle.

## Part 3: Policing and investigation

### Chapter 1: Stopping and seizure

#### Clause 57: Application of stopping powers etc

246 This clause clarifies that where a person would have power to direct a vehicle to stop that person will be able to use an appropriate communication protocol to direct an authorised automated vehicle to stop. If the vehicle does not stop in response to the communication protocol it will commit a traffic infraction in the same way as a human who fails to observe a signal. This clause also expands on the meaning of an appropriate communication to make that direction.

#### Clause 58: Seizure and detention

247 The clause provides constables, or in England and Wales traffic officers, with the power to seize and detain automated vehicles if they suspect that the vehicle has or is about to commit an offence relating to use of a vehicle without a person in control or licensed oversight (as set out in clause 53, section 34B), commit a traffic infraction or it is suspected that there isn't an individual present who can exercise control of the vehicle in locations where it is unsuitable for it to be driving itself.

The difference between 58(2)(a) and (c) being that (c) is a broad power that applies even if a vehicle travelling without an individual exercising or in a position to exercise control is overseen by a licensed no-user-in-charge operator (NUiCO) but is suspected of operating in a location where it is hazardous or unsuitable for a vehicle to travel without a user-in-charge.

248 This clause also permits a vehicle to be seized and detained to avoid risks, danger or inconvenience to the public, enable enquiries to be made to identify the owner of the vehicle, the authorised self-driving entity (ASDE) or the non-user-in-charge operator.

249 The seize and detain power may only be exercised once regulations are in force that cover what happens to seized or detained vehicles. These will aim to avoid owners not knowing what has happened to their vehicle and how to recover it; they will also aim to ensure vehicles are stored appropriately. This clause is self-explanatory in explaining what may be contained in these regulations.

### Clause 59: Interpretation

250 This clause explains that the interpretations in Section 44 of the Bill apply for the purpose of Part 3, Chapter 2 of the Bill on stopping and seizure, as they apply for Part 1 on the regulatory scheme.

## Chapter 2: Investigation of incidents by statutory inspectors

### Clause 60: The role of inspector

251 Subsection (1) requires the Secretary of State to appoint one or more persons to take the role of an inspector to investigate incidents involving automated vehicles.

252 Subsection (2) makes provision regarding the status and position of inspectors. Paragraph (a) provides that inspectors must be civil servants. Paragraph (b) provides that inspectors hold their position on terms to be determined by the Secretary of State, for example in relation to resignation and dismissal. Paragraph (c) provides that junior inspectors are to act under the direction and control of more senior inspectors.

253 Subsection (3) permits the Secretary of State to make regulations about how the functions of an inspector are to be exercised, for example regarding their day-to-day duties including administrative and management activities.

### Clause 61: Purpose of inspectors

254 Subsection (1) sets out the main purpose of the role of an inspector, which is to identify, improve understanding of and reduce the risks of harm arising out of the use of authorised automated vehicles on roads in Great Britain.

255 Subsection (2) states that it is not part of an inspector's role to establish blame or liability on the part of any person in relation to a particular incident. This is to ensure that an inspector can, as far as possible, report factually and neutrally, and that any inference that an inspector has attributed blame or liability is down to the reader. For example, a report should be able to state that "the evidence is that the driver of Vehicle A did not apply the brakes until five meters before the collision occurred", without concern that someone will infer that the inspector is attributing blame

or liability, as the example sentence is entirely factual. In developing the proposed functions and powers of the inspectors, the Government has been guided by [international standards](#).<sup>4</sup> These standards set out that “the sole objective of the investigation of an accident or incident shall be the prevention of accidents or incidents. It is not the purpose of this activity to apportion blame or liability.” This independence of investigation is an essential feature of existing safety investigation regimes in the UK and internationally.

256 Subsection (3) provides that the functions of inspectors are to be exercised in view of that purpose.

## Clause 62: General power to investigate certain incidents

257 Subsection (1) prescribes the kinds of incidents that the inspector has discretion to investigate.

These are described as ‘relevant incidents’ and are defined in subsection (2). This means that an inspector should be able to investigate any incident involving an authorised automated vehicle where there are safety concerns for the purpose of identifying, improving the understanding of and reducing the risks of harm arising out of the use of automated vehicles on Great Britain’s roads.

258 Subsection (2) defines a relevant incident. A relevant incident is an incident that occurs on a road in Great Britain, arises out of the presence of an authorised automated vehicle on that road, and causes, or has the potential to cause, damage to a person or property. Additionally, the incident must not be of a kind that is specified in regulations made by the Secretary of State. For example, regulations may exclude some incidents from the scope of investigations, such as terrorist events or suicides. The investigatory power extends to automated vehicles which had been previously authorised but were not authorised at the time of the incident, for example because vehicle authorisation was withdrawn, and the automated vehicle was used unlawfully, as per clause 77.

259 Subsection (3) provides further coverage for relevant incidents that do not occur on roads but would be defined as a relevant incident under subsection (2) if they did, or otherwise have the potential to lead to an occurrence on the road. For example, if there was an incident that occurred on a driveway or other form of private property that caused or had the potential to cause injury to a person or damage to property.

260 Subsection (4) confirms that no part of section 63, 64, and 65 limits what an inspector may do for the purposes of an investigation without relying on powers of coercion. For example, this would allow for an inspector to enter a premises based solely on the consent of the relevant person.

## Clause 63: Powers in respect of persons

261 Subsection (1) permits an inspector to require a person to provide assistance to them for the purposes of an investigation, if they consider it necessary. Paragraph (a) provides that this may include (but is not limited to) an inspector requiring a person to take positive action to provide them with or allow them access to information, items, or material. For example, this could include

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<sup>4</sup> Aircraft Accident and Incident Investigation:

<https://elibrary.icao.int/reader/229733/&returnUrl%3DaHR0cHM6Ly9lbGlicmFyeS5pY2FvLmludC9leHBsb3JlO3NlYXJjaFRleHlQ9YW5uZXglMjAxMzttYWluU2VhcmNoPTE7dGhlcWVVOYw1lPUJsdWUUVGhlcWU%3D?productType=eBook>



access to an automated vehicle and the associated data that has been collected during the period around an incident of interest. Paragraph (b) provides that this may include an inspector requiring a person to refrain from doing something, such as disturbing, altering or moving anything specified by the inspector.

262 Subsection (2) permits the Secretary of State to make regulations that allow specific forms of assistance to be outlined in regulations. This assistance in regulations may include attendance at an interview, responding to written questions, or providing an inspector with a physical item inside of the vehicle that stores data pertaining to the functions of the authorised automated vehicle.

#### Clause 64: Powers in respect of premises

263 Subsection (1) enables inspectors to exercise the powers set out in subsection (2) in respect of any premises for the purposes of the investigation. For example, this will allow an inspector to obtain access to any land, including roads, buildings, dwellings, and vehicles where it is necessary for the purposes of an investigation.

264 Subsection (2) defines the powers which inspectors may exercise in relation to premises. These include the power to enter and search the premises, examine any document equipment or other item or material on the premises, which includes operating a computer or other device to gain access to that information. Other powers include the power to seize and remove, or record any document, equipment or other item or material, and the power to require any person on the premises to provide information or assistance in furtherance of the above.

265 Subsection (3) restricts the power of an inspector to seize and remove evidence from a scene when taking a photograph or copy is sufficient for achieving their investigative aims. For example, an inspector should refrain from seizing any evidence unless necessary to achieve their primary objectives or a technological solution is not sufficient.

266 Subsection (4) gives inspectors the authority to take other persons, equipment, and materials with them for the purpose of assisting in the exercise of any of the powers set out in subsection (2). For example, an inspector may wish to bring a technician along, and/or make arrangements to bring relevant equipment to the premises, such as a laser scanner.

267 Subsection (5) enables any persons taken onto the premises by an inspector can exercise the powers contained in subsection (2), but only if they are in the company and under the supervision of the inspector.

268 Subsection (6) provides that the inspector or person exercising the powers in subsection (2), may use reasonable force (except in relation to persons) if it is necessary to do so, but only where they are accompanied by a police constable. For example, this could include an inspector using reasonable force to open a locked box or drawer inside premises the inspector has entered.

269 Subsection (7) provides that the powers in subsection (2) may only be exercised in accordance with a warrant issued by a justice of the peace, unless the inspector considers that the exercise of the powers is urgent and that waiting to seek consent, or a warrant would undermine the investigation.

270 Subsection (8) sets out the test to be applied by a justice of the peace for granting a warrant under subsection (7). Paragraph (a) provides that a warrant may be granted only if the justice of the peace is satisfied that it is necessary for the purposes of the investigation to exercise the powers of entry as in subsection (2). Paragraph (b) provides that a warrant only authorises the exercise of those powers at a reasonable hour, only within one month beginning with the day on which the warrant is issued, and only on one occasion (unless the warrant specifies otherwise). Paragraph (c) provides that a warrant may be granted subject to further conditions or limitations.

271 Subsection (9) defines the obligations an inspector must meet when exercising powers of entry in relation to premises. Paragraph (a) states that an inspector must produce to the person in charge of the premises proof of identity and authority where requested. Paragraph (b) states that if the entry is made under warrant, an inspector must give a copy of the warrant to any person appearing to be in charge and if no copy is given during the period of entry, then an inspector must leave a copy of the warrant in a prominent place on the premises, and that a warrant must be returned to the court from which it was issued as soon as is reasonably practicable with an endorsement summarising the powers exercised under that warrant. Paragraph (c) states that if there is no one on the premises who appears to be in charge, inspectors must leave the premises secured against trespassers to the same standard as they found it. Paragraph (d) states that an inspector must retain a written record of the powers exercised in respect of the premises.

272 Subsection (10) places a duty on the Secretary of State to arrange for publication of information on the exercise of powers under subsection (2) at intervals considered appropriate. For example, the Secretary of State could publish every six months a summary of the instances in which inspectors have exercised their powers during the previous six-month period.

273 Subsection (11) confirms that if a warrant under subsection (7) is not executed, an inspector must return it to the court from which it was issued as soon as reasonably practicable. This must include an endorsement stating that it was not executed.

274 Subsection (12) confirms that references in this clause to a justice of the peace include a sheriff in Scotland.

### Clause 65: Powers in respect of road traffic

275 Subsection (1) permits an inspector, for the purpose of an investigation, to direct a person driving a vehicle, or riding an animal on a road to stop or proceed in a certain way, such as keeping to a particular line of traffic. For those on foot, the inspector may direct a person to stop, whether they are proceeding on the road or immediately adjacent to a road.

276 Subsection (2) permits an inspector to direct a person by placing signage on the road, immediately adjacent to it, or on any structures on the road or immediately adjacent to it.

277 Subsection (3) places an obligation on the inspector to remove the sign after seven days beginning on the day it was first placed there. If the sign remains there after that time, it has no effect.

### Clause 66: Offences of impeding investigation

278 Subsection (1) provides that a person commits an offence if they: intentionally obstruct a person exercising those powers under clauses 63, 64 and 65; fails (without reasonable excuse) to comply

with a requirement made of the person in exercise of those powers; and knowingly or recklessly make a statement that is materially false or misleading in response to a requirement made under these powers.

279 Subsection (2) provides that a person commits an offence if they impersonate an inspector and purports to be carrying out an investigation.

280 Subsection (3) provides that a person commits an offence if they fail to comply with a traffic direction under clause 65.

281 Subsection (4) provides that a person who is summarily convicted of an offence under subsection (1) or (2), is liable, in England and Wales to a term of imprisonment up to the maximum limit in a magistrate's court, a fine or both, and in Scotland, to imprisonment for a maximum of 12 months, or a fine (up to the statutory maximum), or both. Persons convicted on indictment are liable to imprisonment for a term not exceeding two years, a fine, or both.

282 Subsection (5) provides that a person convicted of an offence under subsection (3) (traffic direction) is liable on summary conviction to a fine up to level 3 (currently £1,000) on the standard scale.

283 Subsection (6) confirms that Schedule 4 makes amendments in connection with the offence in subsection (3).

#### Clause 67: Application to police officers

284 Subsection (1) provides that an inspector may exercise their powers under clauses 63 to 65 in relation to a police constable in the same way they do with any other person, subject to any exceptions created in regulations in subsection (3). This will apply to every sworn police officer regardless of rank as they derive their power from the Office of Constable.

285 Subsection (2)(a) explains that where information, items or material is held by a constable, their respective police force, or body to which the constable belongs, in connection with an investigation conducted by the constable or police force, an inspector of incidents can require this to be provided to them. For example, the police constable may hold information on a person of interest that should be shared with an inspector but is not necessarily information collected as part of any investigation into a road incident.

286 Subsection 2(b) provides that where a constable is investigating an incident that the inspector is also investigating, the inspector may require a police constable to allow them access to: a place where the constable is investigating, information, items or material relevant to the inspector's investigation, and a witness to the incident for an interview (including those under criminal suspicion in connection with the incident), before any other interview takes place.

287 Subsection (3) permits the Secretary of State to make regulations setting out circumstances in which an inspector is not to exercise a power in relation to a constable, and circumstances in which a constable is not required to comply with a requirement of an inspector. For example, a constable could refuse a request if complying would adversely affect an investigation the constable is conducting or put them in danger. Regulations may also specify circumstances in which a constable does not commit an offence under clause 66.

## Clause 68: Report of findings

288 Subsection (1) requires an inspector to report any findings of an investigation to the Secretary of State. This duty does not apply where in the inspector's view there are no findings of value to be drawn to the Secretary of State's attention.

289 Subsection (2) provides that whilst inspectors cannot determine blame or liability, this does not prevent them from reporting their findings on the causes of an incident, from which liability or blame could be inferred. This enables inspectors to write a factual report, which includes setting out the true cause of a road incident regardless of whether blame or liability is likely to be inferred from the report. For example, a report that states "the evidence is that the driver of Vehicle A did not apply the brakes until five meters before the incident occurred", does not make a determination of blame or liability, but could give rise to an inference of such.

290 Subsection (3) and (4) permit the Secretary of State to create regulations that make further provision about reports. These regulations may make provision in relation to the form of a report, when a report must be made, the use of recommendations, allowing interested persons to comment on a draft report, publication, how and when a report may be admissible in judicial proceedings, and how inspectors should monitor recommendations and take action further to them. Such action taken by inspectors may include the amendment of recommendations or a report being published as to their implementation by relevant parties.

## Clause 69: Appointment of additional persons to exercise investigatory powers

291 Subsection (1) permits the Secretary of State to make regulations requiring or permitting an inspector to appoint a person to conduct or participate in an investigation. This includes conferring powers of an inspector for the purposes of an investigation. For example, this would allow for an aspect of an investigation to be delegated to a person with a particular expertise, such as a Forensic Collision Investigator, or where an investigation is required but the geographical area and timing would preclude an inspector from attending.

292 Subsection (2) confirms that a person who is given functions by regulations under this section is to exercise them on behalf of the Crown. This means that a person is to be taken as an officer of the Crown for the purposes of the [Crown Proceedings Act 1947](#).<sup>5</sup>

## Clause 70: Additional power in respect of information and material

293 Subsection (1) permits the Secretary of State to make regulations requiring a person to provide access to information, items, or material to an inspector other than in response to a request under clause 63 (power in respect of persons).

294 Subsection (2) specifies that regulations made under subsection (1) must specify the purpose for which the information, items or material is or are to be provided, and that this must align with the purpose of an investigation or of any other function of an inspector.

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<sup>5</sup> Crown Proceedings Act 1947: <https://www.legislation.gov.uk/ukpga/Geo6/10-11/44/contents>

295 Subsection (3) provides that regulations made under this clause may create an offence, as per further clause 76 (offences under regulations).

### Clause 71: Obtaining reports from police

296 Subsection (1) permits the Secretary of State to make regulations that require a chief officer of police to report to an inspector incidents that occur within their police force area and are of a description set out in the regulations.

297 Subsection (2) provides that the regulations under this clause may limit the requirement to cases in which an inspector requests a report.

298 Subsection (3) provides that the regulations under this clause must be framed with the intention that only relevant incidents, or incidents that may be found to be relevant incidents, will be reported.

299 Subsection (4) provides that the regulations under this clause may contain provisions regarding the timing, form, and content of reports.

### Clause 72: Ancillary functions

300 Subsection (1) makes provision for further functions that an inspector may carry out. These include the production and publication of road safety information or investigation. An example of safety information which may be produced are the ‘[safety digests](#)’ that the Marine Accident Investigation Branch (MAIB) release to prevent similar incidents from happening again; in this context, these would be tailored to the safety of automated vehicles.<sup>6</sup> Inspectors may also support of the functions of a person responsible for investigations in the marine, air, rail, and spaceflight accident investigation branches (see subsection (3)), or other persons with functions that, in the inspectors’ view, correspond to those of an inspector or a person appointed by those accident investigation bodies, whether in the United Kingdom or internationally. Inspectors may also assist any other person, (whether in or outside the United Kingdom), or carry out other functions, where, in the inspectors’ view, would contribute to the purpose set out in clause 61(1), or one that is equivalent outside Great Britain. Inspectors may or may not choose to make a financial charge for such assistance.

301 Subsection (2) permits the Secretary of State to create regulations requiring inspectors to produce and publish road safety information or information about investigations, or limiting the way they may do so, as well as how inspectors assist other persons outside of the United Kingdom and carry out other functions. For example, regulations may specify that a report must be published within six months of an investigation concluding.

302 Subsection (3) defines the person referred to in subsection (1)(b). These are those bodies who are appointed under relevant United Kingdom legislation as responsible for conducting investigations into marine, air, rail, and spaceflight accidents, and any other person an inspector considers having the functions corresponding to those of an inspector whether in or outside the United Kingdom.

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<sup>6</sup> MAIB safety digests: <https://www.gov.uk/government/collections/maib-safety-digests>

### Clause 73: Protection of information

- 303 Subsection (1) makes provision for this clause to apply to information obtained by an inspector in connection with the inspector's functions, namely through the conduct of an investigation.
- 304 Subsection (2) permits the Secretary of State to make regulations pertaining to the disclosure of this information for a specific purpose provided in the regulations. Subsection (2) also permits the Secretary of State to make regulations concerning how this information is to be dealt with.
- 305 Subsection (3) provides examples of the kind of regulations the Secretary of State may make in relation to subsection (2). These include permitting or requiring the retention or destruction of the items or material; disapply any power under an enactment that might otherwise be used to obtain the information; make provision regarding the admissibility in judicial proceedings; and confer jurisdiction on a court or tribunal. The Secretary of State has the power to confer jurisdiction onto a court to hear any appeal on the decision not to release safety recommendations until such a time as an inspector is satisfied with the conclusions drawn.
- 306 Subsection (4) provides for the offence provision in subsection (5) to apply to the inspector and any person who obtains relevant information on behalf of the inspector, and any person who obtains the information from the inspector. A distinction is made that the offence provision does not apply to a person who obtains this information through its publication, for example, through a safety report.
- 307 Subsection (5) confirms that it is an offence for the person (as defined in subsection (4)) to disclose the information obtained during an investigation to any other person or use the information for a purpose other than the purpose for which it was obtained (except as authorised by or under this Part or any other enactment). For example, an inspector cannot disclose information obtained through an investigation to another investigatory body, such as the police.
- 308 Subsection (6) provides the defences to the offences in subsection (5) for the disclosure and use of this information in certain circumstances. This includes when the consent of the original provider of the information has been provided; there is reasonable belief that the disclosure or use was lawful under this Act and the regulations; or if the relevant information had already been lawfully disclosed to the relevant person.
- 309 Subsection (7) provides that a person who is summarily convicted of an offence under subsection (5) is liable, in England and Wales to a term of imprisonment up to the maximum limit in a magistrate's court, a fine or both, and in Scotland, to imprisonment for a maximum of 12 months, or a fine (up to the statutory maximum), or both. Persons convicted on indictment are liable to imprisonment for a term not exceeding two years, a fine, or both.

### Clause 74: Further provision about physical evidence

- 310 Subsection (1) sets out that the provisions in this clause apply to items or material obtained by an inspector under clauses 63 or 64 or under regulations made under clause 70.
- 311 Subsection (2) provides that an inspector must, when obtaining by request items or material from a person, provide a receipt for that item or material and, where it is possible to make a copy of a document, the inspector must provide a copy of that document.

312 Subsection (3) provides that an inspector may retain an item or material for as long as the inspector deems it necessary for the purposes for which it was obtained.

313 Subsection (4) provides that an inspector may examine an item or material (using reasonable force if necessary), and record any information obtained from an item or material.

314 Subsection (5) permits the Secretary of State to make regulations regarding how items or material obtained by an inspector in connection within the inspector's functions are to be dealt with, namely through the conduct of an investigation.

315 Subsection (6) provides examples of the kind of regulations the Secretary of State may make in relation to subsection (1). These include to permit or require the retention or destruction of the items or material; disapply any power under an enactment that might otherwise be used to obtain the information; make provision regarding the admissibility in judicial proceedings; and confer jurisdiction on a court or tribunal.

### Clause 75: Expenses

316 Subsection (1) permits the Secretary of State to make regulations creating the right to recover expenses, costs, or losses arising out of the exercise of an inspector's functions. This can include an entitlement for the Secretary of State to recover from any other person, or vice versa.

317 Subsection (2) further allows the regulations to confer jurisdiction on a court or tribunal so a court or tribunal may take a role in deciding whether and to what extent, costs should be recoverable.

### Clause 76: Offences under regulations

318 Subsection (1) confirms that where regulations under this Chapter create an offence, they may provide for the offence to be triable summarily only or alternatively, summarily or on indictment.

319 Subsection (2) confirms that where regulations provide for the offence to be triable only summarily, the regulations may provide for the offence to be punishable in England and Wales to a term of imprisonment up to the maximum limit in a magistrate's court, a fine or both, and in Scotland, to imprisonment for a maximum of 12 months, or a fine (up to the statutory maximum), or both. Persons convicted on indictment are liable to imprisonment for a term not exceeding two years, a fine, or both.

320 Subsection (3) confirms that where regulations provide for the offence to be triable either way, the regulations may provide for the offence to be punishable by imprisonment, a fine or both, or a lesser punishment. In England and Wales, the term of imprisonment must not exceed the maximum term for summary offences. In Scotland, the term of imprisonment must not exceed 12 months, and the fine must not exceed the statutory maximum.

321 Subsection (4) confirms that "the maximum term for summary offences" means that if the offence is committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force then the term is six months, and if the offence is committed after that time the term is fifty-one weeks.

## Clause 77: Interpretation

322 This provision clarifies the meaning of the terms used in this Chapter of the Bill. The definition of an “authorised automated vehicle” captures not only those vehicles which have been authorised but those that are no longer authorised within the meaning given in clause 93. This ensures that an inspector can still undertake an investigation into a vehicle that has been authorised but authorisation is no longer in place. This is necessary because the technology on the vehicle could still potentially be a causative factor of an incident. For example, if an ASDE decides to withdraw support for a specific feature, such as automated valet parking because the parking operator has changed, the vehicle authorisation would be withdrawn but the technology would still be on the vehicle and could potentially be hacked and used by an individual. Investigators will be able to investigate in such circumstances, to learn lessons in relation to de-activation of the technology.

323 All other clarifications in this clause are self-explanatory.

## Part 4: Marketing restrictions

### Clause 78: Restriction of certain terms to authorised automated vehicles

324 Subsection (1) provides a power to the Secretary of State to specify, by regulations, what marketing words, expressions, symbols or marks are appropriate only for use with authorised automated vehicles. Subsections (2) and (3) set out offences that a person can commit if a specified word, expression, symbol or mark is misused. For example, by marketing a non-authorised vehicle as “self-driving” if that term was specified in regulations as a term appropriate for use only with authorised automated vehicles. These offences cover use of terms both in relation to a whole vehicle or in relation to a product intended for use as equipment on a vehicle.

325 This clause also includes defences for a person accused of these offences where the term was not intended to convey any meaning to do with automation; where the use of the term was directed at end-users outside Great Britain, and the person exercised due diligence to prevent the term coming to the attention of end-users in Great Britain or to ensure those end-users would understand that the term was not directed at them; and where the business in the course of which the person was acting did not involve the manufacture or supply of the vehicle or equipment in question, nor formulate the communication in which the restricted term was used.

### Clause 79: Communications likely to confuse as to autonomous capability

326 This clause makes it an offence to make, or cause or permit the making of communications which confuse end-users or potential end-users of road vehicles in Great Britain as to whether a vehicle is self-driving (i.e. capable of travelling autonomously, safely and legally), for example by using ambiguous terminology in advertising material. Subsection (2) establishes an assumption for the purposes of this clause that a vehicle which is not an authorised automated vehicle is not capable of travelling autonomously, safely and legally.

327 This clause also introduces defences for a person accused of the offence, where the person has exercised due diligence to prevent confusing end-users of road vehicles in Great Britain, or where the communications were formulated in the course of a business not involved in the manufacture or supply of the product or service in question.



328 This offence is wider than the offence under clause 78 on the restriction of certain terms as it is not limited to the use of specific terms or symbols, or any use of words, but takes account of the overall presentation of a communication and its impact on end-users.

### Clause 80: Liability of corporate officers etc

329 Subsection (1) extends liability for the offences in clauses 78 and 79 to "responsible persons" where a body corporate, partnership, or similar entity established under foreign law commits an offence with the consent or connivance of the "responsible person", or where the offence can be attributed to any neglect on the part of the "responsible person". Subsection (3) clarifies the categories of persons who may be a "responsible person". For example, this offence could occur if a senior manager of a body corporate consented to the body corporate including a misleading term in marketing materials which could be reasonably anticipated as coming to the attention of end-users in Great Britain.

### Clause 81: Interpretation and supplementary provision

330 Subsections (1), (2), (4) and (5) are self-explanatory. Subsection (3) clarifies that the offences in clauses 78 and 79 have extraterritorial application and may be committed anywhere in the world. This recognises that advertising and marketing of driving automation technologies may occur online across multiple jurisdictions, for example via social media platforms. End-users and potential end-users in Great Britain may see this online material even if it is not addressed to them.

331 For the offences in clause 78, the due diligence defence in subsection 78(5) will apply if the use of the restricted term was directed only at end-users or potential end-users outside Great Britain, and due diligence was exercised to ensure that either the use of the term would not come to the attention of end-users and potential end-users in Great Britain, or to ensure that end-users or potential end-users in Great Britain would understand that the use of the term was not directed at them.

332 For the offence in clause 79, a due diligence defence is also available under subsection 79(3) if all reasonable precautions were taken and all due diligence exercised to prevent drivers in Great Britain from being misled.

333 It is an element of all offences under clauses 78 and 79 that it is reasonable to anticipate that the use of the term will come to the attention of an end-user or potential end-user of a road vehicle in Great Britain.

## Part 5: Permits for automated passenger services

### Clause 82: Power to grant permits

334 This clause gives the appropriate national authority the power to grant a permit to a person for the purpose of providing an automated passenger service.

335 Following existing devolution settlements, the term 'appropriate national authority' is adopted to provide Scottish and Welsh Ministers with the power to grant a permit in their nations, for an automated passenger service which resembles a taxi or private hire vehicle, alongside the

Secretary of State for Transport granting these permits in England. Where an automated passenger service resembles a public service vehicle, existing legislation in this area is a reserved matter and the Secretary of State for Transport will be responsible for granting permits in England, Scotland, and Wales.

336 Subsection (2) defines an automated passenger service as a service carrying passengers in road vehicles which is designed or adapted to travel autonomously or is being used as part of a trial which is aimed at developing the autonomous design or adaptation of a vehicle. This enables not only vehicles which have already satisfied the self-driving test, under Part 1 (Regulatory scheme for automated vehicles), to be granted a permit, but also enables the grant of a permit to vehicles operated under a trial with a safety driver. Technology is still developing and therefore trialling of new technologies and vehicles with the aim of developing new automated passenger services that meet the self-driving test is likely to be needed for some time. This definition allows for regulatory flexibility for these vehicles as they are in development.

337 Subsection (3) provides that a permit may be granted for either or both of two purposes, which are securing the disapplication of taxi, private hire vehicle and bus legislation under clause 83, and satisfying a requirement imposed by regulations on the holder of a no user-in-charge operator licence under clause 12 (licensing of no-user-in-charge operators, or NUiCOs).

338 When granting a permit, the appropriate national authority must specify in the permit the areas in which services may be provided, the details of the vehicles in which services may be provided, and how long the permit is valid for. In addition, the appropriate national authority can specify permit conditions under subsection (4)(d). Subsection (5) provides that permit conditions can take the form either of further limitations on the services that may be provided under the permit, or obligations that the permit holder has to fulfil as a condition of holding the permit. Examples of the kinds of conditions which may be attached to a permit include conditions to take account of local considerations as to the operation of the service under the permit, such as complying with local clean air zones, integrating the service within local fare and ticketing schemes, and conditions setting an initial standard which services will need to meet in respect of accessibility and the safeguarding of passengers. Clause 88(1) provides that permit conditions may, in particular, include conditions concerning the collection and sharing of information.

### Clause 83: Disapplication of taxi, private hire vehicle and bus legislation

339 The Law Commissions recommended a new permit scheme which disapplied existing legislation to provide operators of automated passenger services with a safe harbour from existing taxi, private hire vehicle, and public service vehicle legislation given the uncertainty regarding how these might apply in the absence of a driver. This clause disapplies relevant existing taxi, private hire vehicle and bus legislation insofar as a permit holder is providing an automated passenger service in areas and vehicle types specified in the permit. For example, a vehicle used to carry passengers for hire under a permit could not be prosecuted for unlawfully plying for hire.

### Clause 84: Civil sanctions for infringements

340 This clause sets out when a permit holder commits an infringement of the permit scheme. A permit holder may infringe the scheme in two ways. The first is where a permit holder breaches a

condition of the kind described in clause 82(5)(b) (an obligation that the permit holder has to fulfil as a condition of holding the permit) for example overcharging passengers or not complying with conditions relating to accessibility. The second is where a permit holder leads passengers or potential passengers to think that a service is being provided under a permit, but the service could not in fact be provided under the permit. For example, the scheme would be infringed in this way if a permit holder ran its service outside the specified area of operation yet led passengers to believe it was provided under its permit under clause 82(4)(a).

341 Civil sanctions in relation to infringements of the permit scheme are set out in Schedule 6.

### Clause 85: Consent requirement for services resembling taxis or private hire vehicles

342 Where an automated passenger service resembles a taxi or private hire vehicle, this clause provides that the appropriate national authority may only grant a permit with the consent of each licensing authority in whose area the automated passenger service may be provided under the proposed permit. As the responsibility for granting taxi and private hire vehicle licenses currently sits with licensing authorities, obtaining the authorities' consent prior to granting a permit may ensure consideration is given to local issues relating to limits imposed on the number of taxis and private hire vehicles, and vehicle standards set by licensing authorities. Licensing authorities may also consider other factors as part of the consent process, for example local authority traffic calming measures and ensuring services are adequately overseen by the permit holder. These may be reflected as permit conditions in clause 82(5).

343 The responsibility of ensuring that licensing authority consent is obtained will rest with the appropriate national authority. Failure of a licensing authority to respond within six weeks, or refusing consent without giving reasons, is deemed consent.

### Clause 86: Consent requirement for services resembling buses

344 Where an automated passenger service resembles a local bus service for the purposes of section 2 of the Transport Act 1985 and a bus franchising scheme exists in the proposed area of operation under a permit, this clause provides that the appropriate national authority may only grant a permit with the consent of each relevant franchising body. Obtaining the consent of each relevant franchising body prior to the appropriate national authority granting a permit may, for example, ensure that consideration is given to the bus routes, frequencies and running hours of the services under the existing franchising scheme.

345 The responsibility of ensuring that the consent of each relevant franchising body is obtained will rest with the appropriate national authority. Failure of the relevant franchising body to respond within six weeks or to refuse consent without giving reasons, is deemed consent.

346 Where an automated passenger service is proposed to operate under a permit in an area which sits outside any formal bus franchising scheme, the legislation does not place a consent requirement on appropriate national authorities.

### Clause 87: Further requirements

347 Subsection (1) of this clause establishes a requirement for appropriate national authorities to consult with traffic authorities and emergency services substantially affected if the permit is

granted, prior to granting a permit. Responsibility for arranging a consultation forum will rest with the appropriate national authority. The consultation may cover, for example, the operation of the proposed service within the local and strategic road networks, including considerations about how the service will integrate within the existing road network. It may also, for example, provide emergency services with information about how the service will be overseen by the operator, including how to contact them and safely access the vehicle where an incident or accident has occurred.

348 The Law Commissions recommended that the overarching objective of the permit regime should be to improve the knowledge and understanding of how to design and provide automated passenger services for older and disabled passengers. When the appropriate national authority is deciding whether to grant a permit, subsection (3) requires the appropriate national authority to have regard to whether and to what extent the granting of the permit is likely to improve the understanding of providing inclusive services, which meet the needs of older and disabled passengers.

349 To ensure this overarching objective is considered by permit holders throughout the duration of holding a permit, subsection (4) states the appropriate national authority must impose a permit condition under of the sort described in clause 82(5)(b) – an obligation which the permit holder has to fulfil as a condition of holding the permit – requiring the permit holder to publish reports about their automated passenger services and the steps taken to provide accessible services and safeguard passengers more generally.

### Clause 88: Collection sharing and protection of information

350 Subsections (1) and (2) provide that the conditions attached to a permit may include, in particular, conditions as to the collection and sharing of information, including sharing with the appropriate national authority, other public authorities, and private businesses including vehicle manufacturers and insurers.

351 Subsections (3) to (8) establish protections for information obtained under permit conditions providing for the sharing of information. In particular, subsection (5) empowers the Secretary of State to make regulations authorising the recipient of such information to share it with other persons for specified purposes, or use it for purposes other than the purpose for which it was obtained. Subsection (6) makes it an offence for the recipient to use the information for purposes other than those for which it was obtained or disclose it to another person, except as authorised by regulations under subsection (5), or any other legislation.

### Clause 89: Procedural and administrative matters

352 This clause confers certain regulation-making powers on the appropriate national authority in relation to permits. In particular, a permit may be varied, renewed suspended or withdrawn as specified in regulations made by the appropriate national authority. Subsection (4) enables fees to be levied to cover enforcement costs, for example. Subsection (7) empowers the appropriate national authority to provide for its functions under any provision made by or under Part 5 of the Bill to be exercisable by a Traffic Commissioner.

353 Traffic Commissioners are currently responsible for the licensing and regulation of those who operate heavy goods vehicles, buses and coaches, and the registration of local bus services.

#### Clause 90: Interpretation

354 This clause is self-explanatory.

## Part 6: Adaptation of existing regimes

#### Clause 91: Power to update type approval requirements

355 This clause grants the Secretary of State a power to make regulations to amend or impose new type approval requirements for automated vehicles. There are a number of type approval frameworks in assimilated law, which require substantial amendments to enable the approval of automated vehicles.

356 Subsection (1) clarifies that the power granted to the Secretary of State in subsection (2) applies to all vehicles that travel autonomously, as well as those that include elements of self-driving or reliance on software for their operation.

357 Subsection (2) grants the power to the Secretary of State to make regulations to impose new type approval requirements, or to amend or remove existing type approval requirements within the existing legislation.

358 Subsection (3) clarifies that new requirements may include applying the requirements to other entities such as an authorised self-driving entity (ASDE) in addition to those already subject to type approval (traditionally the manufacturer of the vehicle). It also clarifies the type of requirements that may be included for the purpose of securing, demonstrating, recording or assessing compliance with other type approval requirements. For example, this may include requirements for manufacturers to have in place appropriate management systems covering safety, security, and software updates of their vehicles throughout the vehicle's life.

359 Subsection (4) defines terms used within the clause and in particular specifies the meaning of assimilated type approval legislation, which includes the frameworks covering agricultural and forestry vehicles, two- and three-wheel vehicles and quadricycles, motor vehicles and their trailers, and motorcycles.

#### Clause 92: Application of roadside testing powers etc

360 This clause extends the existing powers of vehicle examiners to cover authorised automated vehicles for the purposes of determining whether these vehicles meet authorisation or operator licensing requirements. The Secretary of State already has powers (conferred by section 66A of the Road Traffic Act 1988) to appoint 'vehicle examiners'. These examiners have the power to conduct examinations of vehicles in relation to existing operator licensing and safety regulations for conventional vehicles.

361 The clause also extends the power of vehicle examiners to prohibit a vehicle from driving if an examination identifies a failure to meet authorisation or operator licensing requirements.

362 The clause extends the powers of vehicle examiners by amending the relevant sections of the Road Traffic Act 1988. It also clarifies the application of terms such as ‘driver’ and ‘driving’ when applied to an authorised automated vehicle, and clarifies that a ‘defect’ is any failure to comply with an authorisation or operator licensing requirement.

### Clause 93: Provision of information about traffic regulation measures

363 Traffic regulation orders (TROs) are the legal orders made by traffic regulation authorities that set the rules around a road’s use or its design. They contain information about, for example, the location and times of use of bus lanes or parking bays, speed limits, height and width restrictions, and temporary road closures for street and road works. The data contained in TROs is a valuable data set and will be needed for autonomous vehicles. The data will, for example, mean that information on the legal parameters of the road can be built into the vehicle and will be available to support the safe operation of vehicles.

364 Subsection (1) allows the Secretary of State to make regulations that require traffic regulation authorities in England to provide data about the TROs that they make.

365 Subsections (2) and (3) provide definitions of what is meant by a traffic regulation authority and set out details of the different types of TROs to which the regulations will apply. These are permanent TROs, experimental TROs, temporary TROs, temporary traffic regulation notices, speed limit orders, and special event orders.

366 Subsection (4) allows the Secretary of State to prescribe any information that they think is necessary to make available to autonomous vehicles or electronic equipment designed to undertake or facilitate the driving of other vehicles on roads. The intention is that the information will be provided in a digital format to a central publication platform, and that it will be open data for use by autonomous vehicles and other systems used by vehicles.

367 Subsection (5) clarifies that subsection (4) applies not only to any information provided in accordance with regulations made under this clause, but that it also applies to any information provided in accordance with previous regulations which have been amended by regulations made under this clause.

368 Subsection (6) provides that the regulations must specify the type of data that needs to be provided, the format in which it must be provided, when it needs to be provided, and to whom it needs to be provided.

369 Subsections (7) and (8) state that data must be in the format required by a data model and standards that will be published by the Secretary of State and updated from time to time. The data model may, for example, be updated as technology develops. The data must also be provided electronically.

370 Subsection (9) provides that the regulations may be applied to TROs made before the regulations came into force and this Act was passed.

## Part 7: General provision

### Clause 94: General definitions

371 This clause is self-explanatory.

### Clause 95: Disclosure and information: interaction with external constraints

372 This clause is self-explanatory.

### Clause 96: Crown application

373 This clause provides that clauses 42, 73 and 88 of the Bill apply to the Crown (but not so as to make the Crown itself, as opposed to persons in the service of the Crown, criminally liable). Chapter 1 of Part 2 and Chapter 1 of Part 3 apply to vehicles and persons in the public service of the Crown. Subsection (3) allows the Secretary of State to make regulations that would bind the Crown for the purposes of Chapter 2 of Part 3 of the Act, being the investigation of incidents by statutory inspectors.

### Clause 97: Regulations

374 This clause provides additional clarity regarding the making of regulations under this Bill and is self-explanatory.

### Clause 98: Extent

375 This clause is self-explanatory.

### Clause 99: Commencement and transition provision

376 This clause outlines the details of the commencement of the Bill.

377 With the exception of Part 7 of the Bill, the provisions of this Bill will come into force on the days appointed by the Secretary of State by regulations. There is power for the Secretary of State to commence provisions on different days for different purposes and areas, and to make transitional or saving provision in relation to commencement. Part 7 of the Bill (clauses 94-100) will come into force on the day on which the Bill is passed.

### Clause 100: Short title

378 This clause is self-explanatory.

## Schedule 1: Enforcement action under part 1: procedure

### Part 1- Unilateral variation, suspension or withdrawal of authorisation

#### Paragraph 1: Ordinary procedure

379 This paragraph places a requirement on the Secretary of State to issue a notice to the authorised self-driving entity (ASDE) before varying, suspending or withdrawing an automated vehicle authorisation. This notice will state the Secretary of State's intention to vary, suspend or withdraw authorisation, with an explanation for the intention, and specifies by when and how representations may be made by the ASDE. This provides an opportunity for authorised self-

driving entities to respond to the proposed variation, suspension or withdrawal before it takes effect.

380 In the event the Secretary of State does decide to vary, suspend or withdraw authorisation the Secretary of State must, alongside the issue of notice, provide reasons for the decision.

### Paragraph 2: Procedure for urgent suspension of temporary variation

381 This paragraph sets out the process to be followed if the Secretary of State considers that the need to suspend or make a temporary variation to an automated vehicle authorisation is too urgent for the notification process above. This still allows for the ASDE to make representations to the Secretary of State after the suspension or variation notice. It requires the Secretary of State to consider representations as soon as reasonably practicable before making a decision about whether to lift the suspension or temporary variation. This allows for quick action to be taken where needed to ensure safety, but still enables the ASDE to make representations that inform that decision after the event.

382 In the event that the Secretary of State does not decide to lift the suspension, provided representations have been made, the Secretary of State will need to issue a notice that explains the decision and the reasons for it.

### Paragraph 3: Appeals

383 This paragraph provides a right of appeal against unilateral authorisation measures. It is intended to allow the tribunal to intervene where the Secretary of State makes incorrect factual findings, fails to follow proper procedure, or acts unreasonably - in a public law sense - but not to allow the tribunal to substitute its own judgement on matters of evaluation, such as whether the self-driving test is satisfied. The relevant tribunal will be the First-tier Tribunal unless procedure rules allocate matters to the Upper Tribunal.

### Paragraph 4: Backstop procedure for cases where authorised self-driving entity is defunct

384 This paragraph provides the Secretary of State with power to suspend or withdraw the automated vehicle authorisation without the agreement of and first notifying the ASDE if there is no longer an ASDE, or the entity is no longer capable of being issued with a notice.

385 A suspension or withdrawal made in exercise of these backstop powers takes effect when published or at a later date specified in the notice.

386 The paragraph allows the authorised self-driving entity to appeal if they believe the Secretary of State was wrong to be satisfied conditions under subparagraph (1) were met. This section establishes standard procedures in relation to the Tribunal process to be followed and grounds on which an appeal may be brought by a permit holder.

## Part 2- Civil sanctions

### Paragraph 5 and 6: Notices of intent and costs

387 Paragraph 5 sets out that the Secretary of State must issue a notice of intent before issuing a compliance, redress or monetary penalty notice (referred to as a 'principal notice') to a regulated



body. The Secretary of State must consider any representations made by the body in response to the notice of intent.

388 Subparagraph 5(2) specifies that a notice of intent must set out: the intention to issue the principal notice; the notices' intended terms; the reasoning for the notice; and the time by which and manner in which representations may be made.

389 Subparagraph 5(3) provides that a notice of intent may also set out the Secretary of State's intention to issue a costs notice and give an indication of the value of the costs.

390 Subparagraph 6(1) provides the Secretary of State with the power to issue a costs notice to a regulated body if a compliance, redress or monetary penalty notice has been issued.

Subparagraph 6(2) clarifies that a costs notice requires the regulated body to pay a sum specified in the notice to the Secretary of State.

391 Subparagraph 6(3) limits the sum so that it is no greater than the costs incurred by the Secretary of State and sub section 6(4) sets out that costs can include investigative and administrative costs, as well as the costs of obtaining expert advice.

392 Subparagraph 6(5) sets out that the costs notice must include: details of the costs used to calculate total cost; a breakdown of how the cost has been calculated; and the time and manner in which the cost must be paid. Subparagraph 6(6) sets out that, if the cost is not paid in time, interest can be incurred and the Secretary of State can recover the sum as a civil debt.

393 Subparagraph 6(7) sets out that any cancellation of a compliance notice, redress notice, or monetary penalty notice has the effect of cancelling any associated costs notice.

## Paragraph 7: Appeals

394 This paragraph sets out an appeals process for a person who has been issued with a compliance notice, redress notice, monetary penalty notice or costs notice. An appeal would be made to the Upper Tribunal.

395 Subparagraph (2) sets out the grounds for an appeal. The grounds are: that the matter for which the notice was issued did not occur; that the actions specified in the notice are unreasonable; that the sum or amount in the monetary penalty is unreasonable; the costs relied on in arriving at the sum specified in the notice were not reasonably incurred; the time or manner of payment is unreasonable; or that the Secretary of State failed to comply with the requirements set out in the Bill, or made some other procedural error.

396 If the Court is satisfied with the grounds for the appeal, the appeal must be allowed and the Court must either: cancel or vary the notice; or refer the Court's findings to the Secretary of State with a direction to consider whether to cancel or vary the notice (subparagraph (3)). The Court may only vary the notice where the grounds for appeal relate to monetary penalties or costs.

397 Subparagraph (4) sets out that if the Court does not consider the grounds for appeal are satisfied, the appeal must be dismissed.

398 Subparagraph (6) allows the person who appealed to reopen an appeal on any of the original grounds which led to a direction to the Secretary of State to reconsider or, if the Secretary of State

has re-considered and issued a variation, on any of the original grounds in relation to the variation. This applies if the Secretary of State is directed by the Court to consider a variation or cancellation of the notice and has not done so within the time specified by the Court (subparagraph (5)).

399 Subparagraph (7) gives the Court the power to suspend a notice if an appeal has been made.

400 Subparagraph (8) explains that if a monetary penalty notice includes a daily fine, the Secretary of State or the person the notice was issued to may ask the Court to determine whether the fine must be paid for any particular day. This could, for example, be necessary where a notice has been remitted to the Secretary of State to consider whether to cancel or vary the notice and a variation leads to uncertainty about the extent to which a daily fine is payable.

401 Subparagraph (9) clarifies that, for the purposes of this clause, ‘the Tribunal’ means the First-tier Tribunal. This is qualified in sub section (10), which allows the Tribunal Procedure Rules to provide for an appeal to the Upper Tribunal instead of the First Tier Tribunal. This gives the flexibility for the Tribunal Rules to make adjustments to the appeals process in the future, for example, so that more important cases may directly go to the Upper Tribunal.

## Paragraph 8: Assignment of functions to traffic commissioners

402 Traffic Commissioners currently have responsibility for the licensing and regulation of those who operate conventional heavy goods vehicles, buses and coaches, and the registration of local bus services. They are appointed by the Secretary of State and operate at arm’s length from the Department for Transport as independent regulators. Paragraph 8 gives the Secretary of State the powers to delegate (by regulation) to Traffic Commissioners the issuing of compliance notices, redress notices, monetary penalties and costs notices. This is intended to give the Secretary of State the flexibility to align the regulation of authorised automated vehicles with that of conventional vehicles in the future.

403 Subparagraph (2) sets out that when these powers are exercised by a traffic commissioner, references to ‘the Secretary of State’ in this Part of the Bill are to be read as including a traffic commissioner.

404 Subparagraph (3) provides the Secretary of State with the power to issue regulations that enable a Traffic Commissioner to review a compliance, redress or monetary penalty notice issued by the Secretary of State, if the person to whom the notice was issued applies for such a review.

405 Subparagraph (4) sets out that the right to appeal to the Court (set out in paragraph 7) does not come into effect until the review by the Traffic Commissioner has been completed.

## Schedule 2: Amendments related to Part 1

### Paragraph 1: Theft Act 1968 (c. 60)

406 This paragraph is self-explanatory. Extending the definition of “conveyance” to include authorised automated vehicles is in line with recommendations made as part of the Law Commissions’ review.

### Paragraph 2: Prescription and Limitation (Scotland) Act 1973 (c. 52)

407 This paragraph is self-explanatory.

### Paragraph 3: Limitation Act 1980 (c. 58)

408 This paragraph is self-explanatory.

### Paragraph 4: Road Traffic Act 1988 (c. 52)

409 This paragraph is self-explanatory.

### Paragraph 5: Automated and Electric Vehicles Act 2018 (c. 18)

410 This paragraph replaces the previous automated vehicle listing process set out in section 1 of the Automated and Electric Vehicles Act 2018 (AEVA 2018) and updates the references in the Act from ‘automated vehicles’ to ‘authorised automated vehicles’.

## Schedule 3: Amendments related to Sections 53 and 54

### Paragraph 1: Road Traffic Act 1988 (c. 52)

411 This paragraph ties the new user-in-charge offences into other related legislation and is otherwise self-explanatory.

### Paragraph 2: Road Traffic Offenders Act 1988 (c. 55)

412 This paragraph ties the new user-in-charge offences into other related legislation and is otherwise self-explanatory.

### Paragraph 3: Crime (International Co-operation) Act 2003 (c. 32)

413 This paragraph is self-explanatory.

### Paragraph 4: Armed Forces Act 2006 (c. 52)

414 This paragraph is self-explanatory.

## Schedule 4: Amendments related to Section 66(3)

### Paragraph 1: Amendments related to section 66(3)

415 Subparagraphs (1)-(3) amend the [Road Traffic Offenders Act 1988](#) by inserting the clause 66(3) offences impeding investigation into Schedule 1 (offences to which section 1, 6, 11 and 12(1) of that Act apply), and into Part 2 of Schedule 2 of that Act (penalties for road traffic offences). These insertions are only made in respect to the offence under clause 66(3), Chapter 2 where the offence consists of a failure of a person driving or propelling a motor vehicle to comply with a direction under paragraph 66(3) of the Chapter.

## Schedule 5: Enforcement of marketing restrictions

### Paragraph 1: Duty to enforce

416 This paragraph is self-explanatory.

## Paragraph 2: Application of consumer enforcement powers

417 This paragraph adds a line into the Consumer Rights Act 2015 in the appropriate place. This will allow the Secretary of State to use the appropriate enforcement powers in Schedule 5 of the Consumer Rights Act 2015 in relation to clauses 78 and 79.

## Paragraph 3: Out-of-court undertakings

418 This paragraph allows the Secretary of State to accept an undertaking from a person as to the person's future behaviour, where the Secretary of State considers that the person has committed or is likely to commit an offence under clauses 78 or 79 regarding misleading marketing. The Secretary of State can only accept the undertaking if it would tend to avoid an offence. Subparagraph (3) requires the Secretary of State to publish details of any undertaking accepted under this paragraph.

## Paragraph 4: Civil injunctions

419 This paragraph is self-explanatory. It allows the Secretary of State to bring proceedings for injunctions to prevent the continuing effects of misleading marketing.

## Paragraph 5: Time limit for prosecution

420 This paragraph sets out the time limits for proceedings for offences under clauses 78 and 79, set at the earlier of three years from the date of the commission of the offence or a year from the date the offence is discovered by the prosecutor.

# Schedule 6: Civil sanctions for infringing passenger permit scheme

## Paragraph 1: Compliance notices

421 If the appropriate national authority is satisfied that an automated passenger services permit holder has committed an infringement of the permit scheme, the authority may issue a compliance notice under this paragraph.

## Paragraph 2: Monetary penalties

422 The appropriate national authority may issue a monetary penalty notice under this paragraph if it is satisfied that an automated passenger services permit holder has committed an infringement of the permit scheme as set out in clause 84, or failed to comply with a compliance notice. The appropriate national authority must by regulations set a maximum sum which may be specified in a monetary penalty notice. Subparagraph (8) sets out how the regulations may determine the maximum sum.

## Paragraph 3: Notices of intent

423 This paragraph requires the appropriate national authority to issue the permit holder with a notice of intent prior to issuing a compliance notice or monetary penalty notice. Among other requirements, the notice of intent must set out the terms and reasons for intending to issue a compliance or monetary penalty notice and specify a deadline and manner the permit holder can make representations. Subparagraph (1)(b) requires the appropriate national authority to consider any representations made by the permit holder. In some circumstances the notice of intent process

could reduce the need for the appropriate national authority to proceed to issue a compliance notice or monetary penalty notice. For example, this could occur if the permit holder provided a clear justification for the non-compliance, or a satisfactory timeline to address the non-compliance.

#### Paragraph 4: Costs

424 This paragraph allows the appropriate national authority to issue a costs notice. Costs notices enable the appropriate national authority to recover, from a permit holder, certain costs it has reasonably incurred in connection with issuing a compliance notice or monetary penalty notice to the permit holder. The appropriate national authority may only issue a costs notice to a permit holder if it has issued the permit holder a compliance notice or monetary penalty notice (the 'principal notice'), and the notice of intent which preceded the principal notice stated the appropriate national authority's intention to issue a costs notice in connection with the principal notice, and gave a general indication of the costs that the appropriate national authority would be likely to seek to recover.

#### Paragraph 5: Cancellation and variation

425 This paragraph is self-explanatory.

#### Paragraph 6: Appeals

426 The person issued with a compliance notice or monetary penalty notice will have the right to appeal in the first instance to a First-tier Tribunal (or the Upper Tribunal if this is provided for in Tribunal Procedure Rules). This paragraph establishes standard procedures in relation to the Tribunal process to be followed and grounds on which an appeal may be brought by a permit holder.

#### Paragraph 7: Enforcement action in respect of multiple occurrences

427 This paragraph clarifies that, where a single notice is issued, it may relate to one or more occurrences by virtue of which the power to issue the notice arises. For example, a compliance notice may refer to five occasions where evidence suggests the permit holder breached several different permit conditions of the kind specified in clause 82(5)(b).

## Commencement

428 Clause 99 provides for the commencement of the provisions in this Bill. For the most part, the provisions of the Bill will come into force on the days appointed by the Secretary of State by regulations. Different days may be appointed for different purposes or areas.

429 The exception is Part 7 of the Bill, which will come into force on the day the Bill is passed. The provisions in Part 7 deal with general matters including disclosure of information, Crown application, extent, and the making of regulations under the Bill.

## Financial implications of the Bill

430 The measures in this Bill are, in the most part, enabling and as a result most of the proposals will not place direct costs on the Department for Transport and its agencies purely by their enactment.

431 The measures in the Bill that may give rise to expenditure may include the establishment and running of the safety assurance processes for self-driving vehicles, the self-driving vehicle safety investigation capability and the publication platform for digital traffic regulation orders (TROs). Overall, the costs are expected to be minimal, and the safety assurance processes (e.g., the authorisation and enforcement scheme) are intended to be self-funding through the charging of fees for applications and in relation to ongoing enforcement.

432 Further details of the costs and benefits of individual provisions are set out in the impact assessment published alongside the Bill.

## Parliamentary approval for financial costs or for charges imposed

433 This section will be completed when the Bill passes to the Commons.

## Compatibility with the European Convention on Human Rights

434 The Government considers that the Automated Vehicles Bill is compatible with the European Convention on Human Rights (“ECHR”). Accordingly, Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport has made a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect.

435 These notes deal only with those parts of the Bill which raise specific ECHR issues. The remaining provisions of the Bill are considered not to engage Convention rights, or, if they do, to do so in a way in which it is clear that there is no interference.

## Article 6

436 Article 6 (right to a fair trial) is engaged by clauses 17 and 18. These clauses give the Secretary of State the power to issue an “information notice” and/or an “interview notice” to a regulated body for investigative purposes. There is no automatic right of appeal to a notice issued under these clauses; and clause 20 creates offences for non-compliance with requirements imposed under those clauses.

437 Article 6 confers certain guarantees concerning access to a court/tribunal, however, that right is not absolute and may be subject to limitations. In the case of clauses 17 and 18, while there is no statutory appeal mechanism, the exercise of the powers can, firstly, be subject to judicial review and, secondly, is necessary to achieve an important public policy objective of ensuring that time-critical information necessary to ensure road safety is provided to the Secretary of State. Therefore, the Department considers the provisions do not interfere with article 6.

438 Article 6 is also engaged by clause 51(2) which provides that a person charged with a traffic offence must prove the vehicle was in automated mode at the time in order to rely upon the “user-in-charge” immunity under clause 47(1).

439 Article 6 confers certain guarantees concerning the presumption of innocence. Imposing an evidential burden on the defendant does not interfere with that right providing the nature of the burden is reasonable and proportionate. In the case of clause 51(2) firstly, the clause gives an absolute immunity from liability; a scheme under which that immunity was automatically deemed to apply unless disproved by the prosecution would be disproportionate. Secondly, demonstrating that clause 51(2) applies will require a person to provide certain data. It is reasonable that this decision is taken by the data subject themselves. Therefore, the Department considers that this provision does not interfere with article 6.

## Article 8

440 Article 8 (right to respect for private and family life) is engaged by clauses 63 and 64. Clause 63 gives inspectors the power to require a person to assist in a road traffic accident investigation involving an authorised automated vehicle; which could include the provision of personal data or private documents. Clause 64 gives inspectors powers to enter and search premises, to examine and remove evidence, and to require any person on the premises to provide information or assistance. The powers under clauses 63 and 64 are only exercisable if the inspector considers it necessary for the purposes of an investigation. Powers of this nature are potentially capable of interfering with article 8. Clause 92 also engages Article 8, as it extends the powers under sections 67 and 68 of the Road Traffic Act 1988 (“RTA”) to authorised automated vehicles. Section 67 RTA provides a power to a stopping officer to direct that a vehicle stops to allow for it to be tested under this section by a vehicle examiner. An authorised vehicle examiner under this section is provided with the power to examine a vehicle on a road, in the case of an authorised automated vehicle, for the purpose of ascertaining whether authorisation requirements or operator licensing regulations are being complied with. Under section 68 RTA an authorised vehicle examiner may inspect any vehicle to which the section applies and enter a premises for the purposes of carrying out the inspection. In the case of an authorised automated vehicle, the power does not permit

entry onto domestic premises. This restriction on the power of entry is included in the provision as it is recognised that automated vehicles may be owned by individuals and parked on domestic premises, rather than held at the property of a commercial operator (in the case of public passenger vehicles and goods vehicles also subject to this provision).

441 Article 8 is a qualified right. Any interference is justified where it is in accordance with law, necessary in a democratic society, and pursues a legitimate objective. In the case of clauses 63, 64 and 92, firstly, the conditions under which the powers may be exercised are prescribed in the Bill, including for clauses 63 and 64 stipulations as to when a warrant must be obtained in order to exercise certain powers and each of these clauses are modelled on existing provision in UK domestic legislation, and, secondly, domestic law provides remedies in respect of the unlawful, arbitrary or unreasonable exercise of these powers. Finally, the powers are necessary to secure a legitimate objective, that of road safety, which engages a State's positive obligation under Article 2 of the Convention (right to life). Therefore, the Department considers that these provisions do not interfere with article 8.

#### Article 1, Protocol 1

442 Clauses 63, 64 and 92 also engage Article 1, Protocol 1 (protection of property) ("A1P1") where those powers are exercised to seize, secure, or require the production of information, documentation, or items and in the case of clause 92, to detain a vehicle for the purposes of testing or inspecting the vehicle and prohibiting the driving of unfit vehicles.

443 As with article 8, A1P1 is a qualified right. Any interference is similarly justifiable where, in summary, it is in accordance with law, in the public interest, and proportionate. In the case of clauses 63, 64 and 92 the same justifications set out in respect of article 8 also apply. Those same justifications also apply in relation to clause 29 and clause 58. Clause 29 gives similar powers to those given under clause 64 (albeit that, in the case of clause 29 those powers are exercisable by the Secretary of State and include an additional procedural safeguard in that they are only exercisable under warrant. Clause 58 gives authorised officers (a constable or examiner appointed under section 66A of the RTA), the power to seize and detain vehicles only for the purposes specified and subject to the conditions in the legislation. The power is exercisable for a function in the public interest, in particular to prevent or stop a crime being committed and to avoid a risk of danger or inconvenience to the public or enable enquiries to be made. The legislation requires that the owner is given a reasonable opportunity to recover their vehicle. Therefore, the Department considers that these provisions do not interfere with A1P1.

444 A1P1 is also engaged by clause 8 which gives the Secretary of State power to vary, suspend, or withdraw an authorisation where a requirement relating to authorisation has not been met, both when viewed as a restriction of the licencing condition as well as a restriction on the use to which the vehicle itself can be put following the withdrawal of an authorisation.

445 In case of clause 8, the purposes and conditions under which an authorisation is granted are prescribed in the Bill, which also prescribes extensive appeal rights where the power is exercised, and includes intermediate measures (short of full withdrawal of an authorisation) to ensure proportionality. Clause 8 serves a legitimate objective, that of road safety, and provision allowing



for variation, suspension, or withdrawal of an authorisation in relation to a road vehicle is clearly a proportionate response where that vehicle is not a requirement under which the authorisation has been granted. Therefore, the Department considers that this provision does not interfere with A1P1.

446 Finally, (in relation to the powers given in clauses 8, 17, 18, 58, 63, 64 and 92) section 6 of the Human Rights Act 1998 imposes a separate obligation to act compatibly with the Convention Rights upon public authorities.

## Environment Act 2021

447 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport, is of the view that the Bill as introduced into the House of Lords does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

## Related documents

448 The following documents are relevant to the Bill and can be read at the stated locations:

- [Automated Vehicles – A joint preliminary consultation paper.](#) <sup>[66]</sup>
- [Automated Vehicles: Consultation Paper 2 on Passenger Services and Public Transport – A second joint consultation paper.](#)
- [Automated Vehicles: Consultation Paper 3 - A regulatory framework for automated vehicles – A joint consultation paper.](#)<sup>7</sup>
- [Connected & Automated Mobility 2025: Realising the benefits of self-driving vehicles in the UK,](#) published 19 August 2022.<sup>8</sup>

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<sup>7</sup> The consultation papers listed can be found within the Law Commission Automated Vehicles project: <https://lawcom.gov.uk/project/automated-vehicles/>

<sup>8</sup> Connected & Automated Mobility 2025: <https://www.gov.uk/government/publications/connected-and-automated-mobility-2025-realising-the-benefits-of-self-driving-vehicles>

# Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
<b>PART 1- REGULATORY SCHEME</b>							
<b>Chapter 1- Authorisation of road vehicles for automated use</b>							
Clause 1-2 (self-driving capability)	Yes	Yes	No	Yes	No	No	No
Clause 3-5 (authorisation requirements)	Yes	Yes	No	Yes	No	No	No
Clause 6-7 (grant of authorisation)	Yes	Yes	No	Yes	No	No	No
Clause 8-9 (variation, suspension and withdrawal of authorisation)	Yes	Yes	No	Yes	No	No	No
Clause 10-11 (administration)	Yes	Yes	No	Yes	No	No	No
<b>Chapter 2- Licensing of operators for vehicle use without user-in-charge</b>							
Clause 12-13 (licensing of operators)	Yes	Yes	No	Yes	No	No	No
<b>Chapter 3- Provision of information by regulated bodies</b>							
Clause 14-15 (requirements imposed by regulations)	Yes	Yes	No	Yes	No	No	No

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	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 16-23 (requirements imposed by notice)	Yes	Yes	No	Yes	No	No	No
Clause 24-25 (offences relating to information about safety)	Yes	Yes	No	Yes	No	No	No
Clause 26-27 (liability of individuals)	Yes	Yes	No	Yes	No	No	No
<b>Chapter 4- Powers to investigate premises used by regulated bodies</b>							
Clause 28-33 (powers to investigate)	Yes	Yes	No	Yes	No	No	No
<b>Chapter 5- Civil sanctions against regulated bodies</b>							
Clause 34-37 (civil sanctions)	Yes	Yes	No	Yes	No	No	No
<b>Chapter 6- Other regulatory powers and duties</b>							
Clause 38-40	Yes	Yes	Yes for clause 40, otherwise No	Yes	Yes for clause 40, otherwise No	No	No
<b>Chapter 7- Supplementary provision</b>							
Clause 41-45 (supplementary provision)	Yes	Yes	No	Yes	No	No	No
<b>PART 2- CRIMINAL LIABILITY FOR VEHICLE USE</b>							
<b>Chapter 1- Legal position of user-in-charge</b>							
Clause 46-52 (legal position of user-in-charge)	Yes	Yes	No	Yes	No	No	No

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Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
<b>Chapter 2- Offences</b>							
Clause 53-56 (offences)	Yes	Yes	No	Yes, with the exception of clause 54(2), which extends to England and Wales only.	No	No, with the exception of clauses 53(3) and 54(4), which extend to Northern Ireland	No
<b>PART 3- POLICING AND INVESTIGATION</b>							
<b>Chapter 1- Stopping and seizure</b>							
Clause 57-59 (stopping and seizure)	Yes	Yes	No	Yes	No	No	No
<b>Chapter 2-Investigation of incidents by statutory inspectors</b>							
Clause 60-77 (incident investigation )	Yes	Yes	No	Yes	No	No	No
<b>PART 4- MARKETING RESTRICTIONS</b>							
Clause 78-81 (offences)	Yes	Yes	No	Yes	No	No, with the exception of clause 81(4), which extends to Northern Ireland	No
<b>PART 5- PERMITS FOR AUTOMATED PASSENGER SERVICES</b>							
Clause 82-90 (permits for passenger services)	Yes	Yes	Yes	Yes	Yes	No	No
<b>PART 6- ADAPTATION OF EXISTING REGIMES</b>							
Clauses 91-92 (power to update type approval requirements and application of roadside testing powers)	Yes	Yes	No	Yes	No	No	No

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Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 93 (traffic regulation measures)	Yes	Extends to England and Wales but applies to England only.	No	No	No	No	No
<b>PART 7- GENERAL PROVISION</b>							
Clause 94-100 (general provision)	Yes	Yes	N/A	Yes	N/A	Yes	N/A
<b>SCHEDULES</b>							
Schedule 1 (Enforcement action under Part 1: procedure)	Yes	Yes	No	Yes	No	No	No
Schedule 2 (amendments related to Part 1)	Yes, insofar as the Schedule amends provisions which extend to England	Yes, insofar as the Schedule amends provisions which extend to Wales	No	Yes, insofar as the Schedule amends provisions which extend to Scotland	No	No	No
Schedule 3 (amendments related to section 54)	Yes	Yes	No	Yes	No	Yes, insofar as the Schedule amends provisions which extend to Northern Ireland	No
Schedule 4 (amendments related to section 66 (3))	Yes	Yes	No	Yes	No	No	No
Schedule 5 (enforcement of marketing restrictions)	Yes	Yes	No	Yes	No	No, with the exception of paragraph 2, which extends to Northern Ireland	No
Schedule 6 (civil sanctions for infringing	Yes	Yes	Yes	Yes	Yes	No	No

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	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
passenger permit scheme)							

## Subject matter and legislative competence of devolved legislatures

449 Apart from certain exceptions, which are discussed below, the majority of the Bill is concerned with the authorisation and construction and use of automated vehicles on roads. This falls within the subject matter of the Road Traffic Act 1988 (that Act being concerned with enactments relating to road traffic) which is a reserved matter under Schedule 5, Head E (Head E) to the Scotland Act 1998 and Schedule 7A, Part 2 Head E, section E1 (section E1) to the Government of Wales Act 2006.

450 The exceptions are those provisions concerned with automated passenger services which the Department considers do related to devolved matters in respect of Scotland and Wales, and accordingly engages the legislative consent process. Further, while the power in clause 40 does not relate to devolved matters, the Department considers that it nevertheless engages the legislative consent process to the extent that it gives the Secretary of State power to impose functions on Devolved Welsh Authorities or modify the executive competence of the Scottish Ministers.

# **AUTOMATED VEHICLES BILL [HL]**

## **EXPLANATORY NOTES**

These Explanatory Notes relate to the Automated Vehicles Bill [HL] as introduced in the House of Lords on 8 November 2023 (HL Bill 1).

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