

AUTOMATED VEHICLES BILL

Memorandum from the Department for Transport to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Automated Vehicles (“the Bill”). The Bill was introduced in the House of Lords. This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.
2. The Bill contains **35 provisions** that include delegated powers, which are set out in **Annex A**. The Department has considered the use of the powers in the Bill as set out below and is satisfied that they are necessary and justified.

B. PURPOSE AND EFFECT OF THE BILL

3. The Automated Vehicles Bill implements the recommendations of the 4-year review of regulation for self-driving vehicles carried out by the Law Commission of England and Wales and the Scottish Law Commission. The purpose of the Bill is to set the legal framework for the safe deployment of self-driving vehicles in Great Britain.
4. The Bill includes provisions to:
 - a. **Ensure legal liability**
 - i. The Bill gives drivers immunity from prosecution when a self-driving system is engaged.
 - ii. The Bill also sets out the responsibilities of companies that develop and operate self-driving vehicles on roads in Great Britain.
 - b. **Create a safety framework for self-driving vehicles**
 - i. The Bill will set the threshold for authorisation of self-driving vehicles in law; only vehicles that can drive themselves safely and can follow all road traffic rules without the need for a human to monitor or

control the vehicle to maintain that level of safety will be authorised for use as self-driving on roads in Great Britain.

- ii. The Bill sets out a framework to establish the safety requirements that companies will have to meet from the point a vehicle is introduced onto roads and throughout its use. The Bill also creates new sanctions and penalties if companies fail in their duty.
- iii. The Bill will also enable new processes to investigate incidents involving self-driving vehicles to ensure that safety lessons are fed back into the safety framework.
- iv. The Bill will make road information available digitally and in a common format to self-driving vehicle developers and operators. The data can then be used to create a digital map of the road network which will support the safe operation of self-driving vehicles.

c. Prohibit misleading marketing

- i. The Bill prohibits misleading marketing. Only vehicles that meet the safety threshold can be marketed as self-driving. For all other vehicles, the driver is responsible at all times.

5. The Bill is structured in 7 parts and 6 schedules.

C. DELEGATED POWERS

6. The Bill prescribes a new framework to enable the deployment of self-driving vehicles. However, aspects of the framework will have to be adapted to ensure that the legislation remains fit for purpose and keeps pace with the evolving, innovative and fast-moving automated vehicle industry. The provision for delegated powers, subject to appropriate scrutiny and safeguards, is proposed to enable the Government to adapt policy in light of practical experience, scientific advice and technological changes.

7. Moreover, the majority of the powers in the Bill also have precedents in similar legislation, for example, legislation for approving and licensing vehicles, where setting requirements through secondary legislation is a common approach. For the proposed powers in these areas, the technical level of detail is more appropriately dealt with through secondary legislation.

8. The delegated powers in the Bill fall into the following thematic categories.

- a. New regulation-making powers and powers to issue statutory guidance
 - b. Provisions which modify, or are based upon, existing delegated powers
 - c. Power to amend primary legislation
 - d. Powers for other persons or bodies
 - e. Powers to make consequential amendments, transitional or saving provisions, and provisions relating to commencement.
9. The delegated powers in the Bill can be grouped between the different sections of the Bill and can be summarised as follows:
- a. **The delegated powers that follow well-established precedent for vehicle legislation such as the Road Traffic Act 1988.** Examples of this are powers to set authorisation requirements and conditions, powers to establish operating licensing schemes and powers to set monetary penalties for breaches of regulatory requirements. Technical details such as the value of fines and the form and content of an application for authorisation are best suited to secondary legislation. The Department has ensured that these powers are comparable in scope to the powers the Secretary of State currently has for conventional vehicles.
 - b. **Delegated powers that are necessary to ensure the legislation remains fit for purpose and can keep pace with a novel and evolving technology.** An example of this is the power that places a requirement on the Secretary of State to publish a 'Statement of safety principles'. The ability to adapt safety standards and expectations for self-driving vehicles as necessary over time will help to support continued safety improvements.
 - c. **Delegated powers to establish the self-driving vehicle safety investigation function.** There are 12 delegated powers for this area in the main clauses. Examples of this are powers to empower an "inspector of incidents" and powers to require the inspector of incidents to create and publish reports, including issuing recommendations to inform safety. In developing the proposed powers, the Department has been guided by international standards and precedent that define the investigatory independence, capability and operating procedures for safety investigation (e.g. for the air, marine, rail, spaceflight and health activities).

10. The Bill also contains standard powers in respect of commencement and transitional or saving provision. A full summary is at **Annex A**.
11. The Bill drafting has been supported by three rounds of consultation by the Law Commissions', which has ensured that the powers in the bill have been sufficiently developed, with significant detail already included on the face of the bill, to give parliamentarians an insight into what the regulations may contain and the intentions of the Ministers when using them. Appropriate safeguards have also been included, such as requirements to consult on the regulations before they are laid in parliament. The Department will also provide strong policy statements to support the powers. We plan to publish policy scoping notes and the Government response to the consultation on the safety ambition for self-driving vehicles. This will provide an insight into the intended use of the powers and the policy intent of the regulations.

Henry VIII powers

12. The Bill contains 1 power to amend primary legislation through secondary legislation (so-called "Henry VIII powers"), which is the power to change or clarify application of existing traffic legislation. This gives the Secretary of State for Transport powers to change or clarify through regulations whether, or in what circumstances, certain existing offences for drivers of conventional vehicles will also apply to a "user-in-charge" (a new concept introduced by the framework). This is subject to the affirmative procedure (where the change or clarification is to primary legislation) to help to mitigate concerns about its use.
13. The need for this power was endorsed by the Law Commissions' final report in recommendation 45: "The new Act should include a regulation-making power to adapt the lists of dynamic and non-dynamic offences in the light of experience, including a power to allocate some or all roadworthiness responsibilities to the Authorised Self-Driving Entity (ASDE, a new concept introduced by the framework)." To note, since the effect of the amendment will be to change or clarify whether the particular offence is in scope of the user-in-charge's immunity, it will not change the offence itself.
14. Justifications for taking this power are set out fully under Clause 50(1) in this memo below, but two non-exhaustive examples are set out here:
 - a. **The need to account for developments in self-driving technologies.** As the technology and market matures, it is possible that some of the non-dynamic responsibilities that currently fall to a driver may be considered more suited to an ASDE than a user-in-charge. The Law Commissions, for example, noted that a user-in-charge's responsibilities for roadworthiness may change as

vehicles become better at self-diagnosing problems - and as ordinary individuals find it more difficult to spot problems. In future the Secretary of State may use the power to allocate some or all roadworthiness responsibilities to the company responsible for authorising the self-driving capabilities of the vehicle. Giving the Secretary of State the power to change which responsibilities continue to apply to the user-in-charge will enable a flexible and future-proof approach to regulating this new technology and supporting its safe deployment over time.

- b. **The power is also limited, carefully bounded with detailed guidance set out on the face of the bill**, for example by the general principle expressly setting out in the Bill in clause 47 (that the user-in-charge not liable for the way in which the vehicle is driven) and the examples set out in the same clause stating that the ‘way in which a vehicle is driven includes (for example) the use of signals and lighting but does not include (for example) the condition or qualifications of the driver’.

Consultation

15. The Bill largely reflects the recommendations of the review of Automated Vehicle (AV) legislation undertaken by the Law Commission of England and Wales and The Scottish Law Commission (the Law Commissions or the LC). Their final report of January 2022 recommended that a new Automated Vehicles Act should be introduced to regulate automated vehicles on roads or other public places in Great Britain and that the UK, Scottish and Welsh governments should work together to introduce a uniform scheme that will apply across Great Britain. The Law Commissions’ recommendations were supported by three rounds of consultation between November 2018 and December 2020, involving 404 written responses and 350 meetings with interested parties.

16. The Bill implements the Law Commissions’ recommendations and delivers a full regulatory framework to support the roll out of Automated Vehicles on GB roads.

Persons and bodies within the DPM/Abbreviations

17. This memo refers to a number of persons and bodies. These are

- a. The “Secretary of State”: This refers to the Secretary of State for the Department for Transport.

Analysis of delegated powers by clause

18. The Bill confers delegated powers on the Secretary of State and the appropriate national authorities. The powers are required primarily to ensure that our legal framework for self-driving vehicles and policies will continue to function in the long term, by providing some flexibility to accommodate future changes in evidence, approaches, policymaking, industries or technologies which are not predictable at this time.

PART 1- REGULATORY SCHEME

Chapter 1 – Authorisation of road vehicles for automated use

Clause 2(1) - Statement of safety principles

Power conferred on: Secretary of State

Power exercised by: Statutory guidance

Parliamentary Procedure: Negative procedure, laid for 40 days before Parliament (similar to the Highway Code)

Context and Purpose

19. In their recommendations to the Government, the Law Commissions' recommendation 6 suggested that the Secretary of State should publish a safety standard against which the safety of automated driving can be measured, and that this should include a comparison with harm caused by human drivers. Government's white paper 'Connected and Automated Mobility 2025: Realising the benefits of self-driving vehicles in the UK', published in August 2022, set out the Government's intention to develop a non-statutory safety ambition for self-driving vehicles, supported by statutory guidance in the form of national safety principles. A proposed safety ambition was consulted on in the white paper and a government response to the consultation is due to be published shortly.
20. Clause 2(1) places a requirement on the Secretary of State to publish a 'Statement of safety principles' (the national safety principles referred to in the Government's white paper). These principles will provide further detail on the safety expectations for self-driving vehicles and will be used to inform safety assessment across the self-driving vehicle regulatory scheme.
21. Clause 2(2) of the Bill requires that the principles are framed with a view to securing that road safety in GB will be better as a result of the use of self-driving vehicles. This

is the floor below which the safety principles, and hence the expectations of safety for self-driving vehicles cannot go.

22. The Secretary of State is required to have particular regard to the 'Statement of safety principles' in assessing whether a vehicle satisfies the 'self-driving test', which is a basic concept of the Bill set out in Clause 1. If a vehicle does not meet the self-driving test, it cannot be used as a self-driving vehicle.

Justification for taking the power

23. The safety principles will flow from the Government's safety ambition for self-driving vehicles. The proposed ambition aims to support safety without stifling this emergent technology or losing early safety gains. However, the Government's Centre for Data Ethics and Innovation paper on "Responsible innovation in self-driving vehicles" notes that "uncertainty about a socially tolerable risk threshold for AVs will remain until the technology is mature and deployed at scale". As such, the Government may wish to increase the level of safety ambition as the technologies mature and social expectations of performance evolve. Setting the principles in statutory guidance rather than on the face of the Bill provides flexibility to alter the safety ambition and hence principles over time.
24. The power to prepare a statutory statement of safety principles is necessary in order to provide clarity on safety expectations for self-driving vehicles. The Department considers that the power is necessary to bridge the gap between the Government's non-statutory high level safety ambition for self-driving vehicles and the detailed technical requirements to be tested at approval. Not every possible scenario can be tested at approval, so these principles will provide industry and regulators with further guidance on the standard of behaviour these vehicles are expected to achieve.
25. Identifying safety principles for self-driving vehicles in comparison with human drivers is challenging. The Law Commissions considered a number of options including As Low As Reasonably Practicable (ALARP) and a positive risk balance, however there was little consensus in consultation responses about preferred options. International regulators have also struggled with this, opting to stick to generic safety requirements similar to clause 2(2). However, government stakeholders, including the Transport Select Committee, have called for more clarity regarding the interpretation of the Government's proposed safety ambition for self-driving vehicles. Setting the principles as statutory guidance allows for further consultation and consensus building, and for further parliamentary scrutiny in due course.

26. The Government considers that setting out detailed provisions on the face of Bill would also not allow the flexibility needed given that self-driving technology, and the means to assure its safety, are still developing rapidly. Government cannot yet know the full range of potential self-driving technologies and deployment use cases. For example, automated valet parking using a combination of technologies both on the vehicle and within car park infrastructure is a use case that has only recently arisen as a realistic possibility, and it presents different safety assurance challenges.
27. This flexibility would also enable the Government able to take account of lessons learnt from early deployments, by adapting the principles as necessary over time to support continued safety improvements. Although there have been a number of exciting trials, GB deployments of self-driving vehicles have not yet been seen in practice.
28. It is anticipated that the principles will be detailed and therefore the Government judges they would not be appropriate to include in primary legislation. For example, they could describe unacceptable self-driving vehicle behaviour derived from human driving offences, such as requiring self-driving vehicles not to drive in a manner that would be deemed dangerous by a reasonable observer. This could be expanded to describe what dangerous behaviour might look like, for example driving too fast or overtaking dangerously. The principles could also set out positive expectations of self-driving behaviour, for example that they protect occupants and other road users from harm, or that they maintain traffic flow.
29. Safeguards have been included in relation to the exercise of this power to ensure that stakeholders are consulted during the development of the principles. For example, clause 2(3) provides that in preparing the statement, the Secretary of State must consult such representative organisations as the Secretary of State thinks fit.

Justification for the procedure

30. The Department considers that the laid negative resolution procedure, combined with the additional safeguard of the consultation requirement in clause 2(3), gives the appropriate level of scrutiny and is consistent with the procedures applicable to The Highway Code under section 38 of the Road Traffic Act 1988.

Clause 5(1)- Authorisation requirements and conditions

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

31. Authorisation is fundamental to the self-driving vehicle legislative and safety framework. It will identify the vehicles that will be subject to the new framework and the safety requirements within it, and will ensure clear accountability for the driving behaviour of vehicles with no human driver. Authorisation is also a fundamental part of determining whether the human inside the vehicle should be immune from offences relating to how that vehicle is driven.
32. Authorisation is the process by which the Secretary of State will determine whether a vehicle meets the self-driving test, which is the test that will determine whether a vehicle can safely and legal drive itself and, therefore, whether legal responsibilities change. Authorisation will also identify an 'Authorised Self-Driving Entity' for each authorised vehicle, which is the legal entity that will be held responsible for the driving behaviour of the vehicle when it is driving itself.
33. Clause 5(1) gives the Secretary of State the power to establish 'authorisation requirements' through regulations. These are requirements that must be met in order for a vehicle to be authorised and continue to be authorised. Some requirements may only apply to certain types of authorisation (for example authorisation of vehicles that never have a human driver), whilst other requirements (such as the identification of an authorised self-driving entity) will apply to all authorisations.
34. Clause 5(1) identifies two types of authorisation requirements:
 - 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.
35. Clause 5(2) enables the Secretary of State to set conditions as part of ongoing authorisation requirements and are specific to an individual authorisation.

36. Clause 6 requires the Secretary of State to put in place authorisation requirements that ensure the identification of a suitable Authorised Self-Driving Entity (ASDE). These must include, for example, requirements ensuring that the ASDE is of good repute, good financial standing, and competent to carry out the requirements placed upon it.
37. The scope of the regulation-making power in clause 5(1) is further clarified by clause 96, which states that regulations are to be made by statutory instrument and which are subject to annulment procedures. Clause 96(4) clarifies that regulations may make different provision for different purposes or areas, as well as consequential, supplementary, incidental, transitional or saving provision (clause 96(4)(a)-(b)). Clause 96(4) also provides that regulations made under clause 5(1) may allow for the exercise of discretion (clause 96(4)(c)). Clause 96 applies to all regulation-making powers in the Bill (with the exception of the power in clause 98) (clause 96(1)). As such, the clarifications in clause 96 apply equally in respect of all other clauses discussed below.
38. Authorisation requirements and conditions will enable the Government to implement a number of the Law Commissions' recommendations on authorisation. For example, recommendation 13 which recommends that authorisation should be conditional on the ASDE undertaking ongoing duties such as assuring the vehicle continues to drive safely throughout its lifetime. Also, recommendation 12 which recommends that an ASDE must be of good repute and appropriate financial standing.

Justification for taking the power

39. In order to ensure safety and other societal objectives (e.g. good traffic flow), authorisation requirements are likely to include conditions that are very specific, including some conditions specific to individual authorisations. It would not be appropriate to include the kind of detail necessary to set out these conditions in primary legislation. The Department already envisions a wide variety of potential self-driving use cases, including but not limited to:
- a. Self-driving shuttles in a controlled environment such as an airport
 - b. Automated valet parking
 - c. Motorway chauffeur technology
 - d. "Robotaxi" services in a limited geographical location

- e. Last-mile logistics vehicles with no human occupants
 - f. Long-distance logistics vehicles
 - g. Self-driving bus service
40. The conditions needed to ensure the ongoing safety of these different use cases may be very different. For example, a motorway use case may need to be able to react appropriately to overhead gantries whilst an airport shuttle might not, or a self-driving bus service might need to be able to recognise someone trying to flag them down whilst a last mile logistics vehicle would not. Some self-driving technologies may have authorisation requirements and conditions that relate to technology in external infrastructure, whilst others may rely solely on in-vehicle technology. Similarly, authorisation requirements and conditions related to ongoing maintenance of the self-driving technology might vary depending on the use case. An authorisation condition could also limit operating hours of a deployment, or the number of vehicles involved. In these ways authorisation conditions will be necessarily very specific and relate to the type of vehicle; when, where and how it will be used; and the conditions and other road users it is likely to encounter.
41. Even when considering generic authorisation requirements, self-driving technology is still developing, and the Government considers flexibility is needed to address issues and potential future use cases that are not currently envisaged. Prescriptive primary legislation would lead to a strong risk that requirements would quickly become out of date and ineffective, whilst higher-level requirements could fail to deliver the desired safeguards and clarity to industry.
42. The approach of setting requirements through regulations is a common approach for technical regulations which may evolve over time, such as those issued elsewhere under the Road Traffic Act 1988. For example, s. 54(1) of the Road Traffic Act 1988, which enables the creation of technical approval requirements for vehicle systems under the type-approval regime.
43. One of the authorisation requirements set out in Clause 6 of the Bill is the designation of an Authorised Self-Driving Entity (ASDE). This is a brand-new legal entity. Whilst the Bill sets some expectations of the ASDE around good repute, financial standing and the ability to discharge authorisation conditions, we have not yet seen how this entity will work in practice. Flexibility is therefore also needed in case other desirable ASDE specifications are identified through deployment experience.

44. There are also ongoing international discussions around the regulation of self-driving vehicles. International compatibility is desirable in order to assist future cross-border trade and travel. Flexibility is needed to enable adjustments to authorisation requirements in response to international consensus, within the parameters set out in the Bill and the future safety principles.
45. Care has been taken to ensure the delegated power is drawn so as to give sufficient certainty as to what the regulations may be expected to contain. For example, the requirement in clause 6(4)(b) for the authorisation requirements to ensure that ASDEs are of good repute, good financial standing and capable of discharging authorisation requirements.

Justification for the procedure

46. The Department considers that a negative resolution procedure gives the appropriate level of Parliamentary scrutiny over the exercise of this power, noting the detailed and technical nature of the regulations. It is also consistent with the procedure applicable to existing powers for issuing technical regulations under the Road Traffic Act 1988. See for example s.54(1) of the Road Traffic Act, which enables the creation of technical approval requirements for vehicle systems under the type-approval regime and is also subject to the negative procedure (see section 195(3) of the Road Traffic Act).
47. As an additional safeguard on the exercise of the power, before making regulations setting out authorisation requirements and conditions, the Secretary of State must consult the representative organisations that they think fit (clause 97(2)). This ensures stakeholder engagement and provides a further layer of transparency.

Clause 11 (1)- Regulations about authorisation procedure

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

48. Authorisation is the process by which the Secretary of State will determine whether a vehicle meets the self-driving test, which is the test that will determine whether a vehicle can safely and legal drive itself and, therefore, whether legal responsibilities change. Authorisation will also identify an ASDE for each authorised vehicle, which

is the legal entity that will be held responsible for the driving behaviour of the vehicle when it is driving itself.

49. 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. The regulations may cover: the form and content of an application, the fees payable for an application and ongoing authorisation, the examination of vehicles, the notification of decisions, and appeals against decisions.
50. The purpose of these regulations will be to provide clarity to those applying for authorisation of a vehicle and to ensure consistency of approach both by those applying and those assessing an application. This will help to support effective and efficient processes and will ensure that the costs to government of authorisation can be recovered. Recommendation 16 of the Law Commissions' report recommended that there should be regulation-making powers in a new Act to specify, among other things, the application process and fees for authorisation, and the procedure for application. Clause 11 implements these recommendations.

Justification for taking the power

51. The power to set out authorisation procedures is necessary in order to provide clarity to those applying for authorisation of a vehicle and to ensure consistency of approach both by those applying and those assessing an application. It will also likely provide for procedures for appeal for those would-be ASDEs who disagree with the authorisation decision. In the Department's view, it would not be appropriate to include the level of detail necessary to set out these procedures in primary legislation.
52. There is also likely to be a need to update these regulations regularly, for example fees are likely to change over time and improved procedures may be identified through experience. Government considers these would be best updated through statutory instruments rather than requiring Parliamentary time for minor updates and technical amendments.
53. The approach of setting requirements through regulations is a common approach for technical regulations which may evolve over time, such as those issued elsewhere under the Road Traffic Act 1988. For example, s. 54(1), which enables the creation of technical approval requirements for vehicle systems under the type-approval regime.

Justification for the procedure

54. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny, given the procedural nature of the regulations. It is also consistent with the procedure applicable to existing powers in the Road Traffic Act 1988 to make regulations about authorisation procedures: see, for example, the powers in sections 13(3), 13A(2) and 31(3) of that Act.
55. As an additional safeguard on the exercise of the power, before making regulations setting out authorisation procedures, the Secretary of State must consult the representative organisations that they think fit (clause 97(2)). In the Department's view this ensures stakeholder engagement and provides a further layer of transparency.

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

Clause 12 (1) – Power to establish operator licensing scheme, and further provision about operator licensing

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

56. Vehicles which can drive themselves without the need for a driver or user-in-charge are referred to as no-user-in-charge (NUiC) vehicles. NUiC vehicles can undertake a whole journey in self-driving mode; any individual in the vehicle is merely a passenger and has no responsibility for the driving or operation of the vehicle. To ensure the safe deployment of such vehicles, they will be required to be overseen by a licensed no-user-in-charge operator. This will be in addition to being authorised.
57. The licensing scheme aims to provide the Secretary of State with a flexible means by which to regulate the safe and legal deployment of no-user-in-charge vehicles. For example, a licensed operator would be expected to ensure the roadworthiness of the vehicles for which it is responsible, in a similar way to 'authorisation requirements' for all self-driving vehicles.
58. The regulations will also provide applicants with a clear process by which to submit no-user-in-charge vehicles for licensing, including what fees they may incur and how they may appeal. The regulations would also explain how regulated parties would

be notified of the grant and renewal of a licence, as well as when the licence expires, is varied, suspended, or revoked.

59. The ability to establish a licensed operator scheme, and to set procedures and conditions as part of the scheme, will enable the Government to implement a number of the Law Commissions' recommendations on NUIc operation licensing, including some or all of Recommendations 50-55. In particular, Recommendation 52 recommends that the Secretary of State should have the power to specify requirements as to good repute, appropriate financial standing and operating within Great Britain for licensed operators.

Justification for taking the power

60. The power to establish an operator licensing scheme is essential in order to ensure the safe and legal deployment of no-user-in-charge vehicles.
61. Without this power, the Secretary of State would be unable to set conditions that are specific to individual operators. For example, more stringent conditions concerning vehicle loading are likely to apply to an operator overseeing vehicles carrying dangerous goods than would apply to one overseeing last mile delivery vehicles only carrying pizza deliveries.
62. Even when considering generic operator licensing requirements, self-driving technology is still developing and so the Government considers flexibility is needed to address issues and potential future use cases that are not currently envisaged. For examples there might be oversight requirements concerning staff qualifications, or procedures for removal of vehicles that are blocking traffic as has been seen with self-driving vehicle deployments overseas, that would change once the Government has a better understanding of oversight issues in practice. Other oversight requirements could include things such as how to deal with incidents or how to exchange insurance details.
63. No-user-in-charge operations are right at the edge of current innovation, with limited real-world experience in this area. However, there are significant potential benefits, for example in terms of access to transport, therefore the Government wishes to retain the ability to enable it in a safe and regulated way. Prescriptive primary legislation would lead to a strong risk that requirements would quickly become out of date and ineffective, whilst higher-level requirements could fail to deliver the desired safeguards and clarity for industry.

64. As can be seen from the examples above, the requirements may also be very detailed, the Government believes this level of detail is not appropriate for primary legislation.
65. The approach of setting requirements through regulations is a common approach for technical regulations which evolve over time, such as those issued under the Public Passenger Vehicles Act 1981. For example, s. 59 which provides the power to make regulations as to procedure on applications for licences or s60, which provides a general power to make regulations for purposes of the Act. The operator licensing requirements are also expected to change over time, for example Clause 13 (3)(b) allows for provisions regarding license fees that will likely need to change over time.

Justification for the procedure

66. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny, given the detailed and technical nature of the regulations. It is also consistent with the procedure applicable to existing powers for issuing technical regulations under the Road Traffic Act 1988. See for example s.54(1) of the Road Traffic Act, which enables the creation of technical approval requirements for vehicle systems under the type-approval regime and is also subject to the negative procedure (see section 195(3) of the Road Traffic Act). Powers in the Road Traffic Act 1988 to make regulations about authorisation procedures are similarly subject to the negative procedure: see, for example, the powers in sections 13(3), 13A(2) and 31(3).
67. The requirement in clause 97(2) to consult on the regulations prior to laying in Parliament will provide an additional layer of transparency.

Chapter 4- Powers to investigate premises used by regulated bodies

Clause 31 (5)- Seizure of items

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

68. In order to ensure effective in-use regulation of self-driving vehicles it is essential that the Secretary of State has access to the information necessary to make decisions

on whether to issue sanctions and, if so, which sanctions would be appropriate. The Bill gives the Secretary of State the power to request information from regulated bodies and, where this information is not provided, the Secretary of State may apply for a warrant to enter and search the premises of regulated bodies and seize relevant information and items.

69. Clause 31 sets out the obligations of an authorised person who, in the execution of a warrant, seizes and detains information or items. For example, the obligation to provide a receipt on request, and only seizing an item considered necessary for the investigative purposes.
70. Clause 31 (5) gives the Secretary of State the power to make regulations providing for how to deal with seized items . Clause 31 (6) sets out what the regulations may cover. For example, they may:
 - a. authorise the retention or use of the thing seized for purposes other than the investigatory purposes;
 - b. authorise the delivery of the thing seized to a person other than its owner;
 - c. authorise the destruction of the thing seized.

Justification for taking the power

71. There is a need to make provisions about what is to happen to items seized from regulated premises in order to provide clarity to regulated bodies and prescribe the Secretary of State's powers. The range of items that may be seized may be varied and broad for example from documents, to computer hardware or whole vehicles; and therefore the ways in which they might be dealt be similarly varied and broad with a level of detail not suitable for the face of the Bill.
72. There is also uncertainty about the way in which information will be held by regulated bodies, and the equipment and items that may be relevant to information provision. This is because the regulated bodies will be dealing with new technology that is not yet widely deployed in Great Britain. This power will therefore provide the flexibility to deal with this evolving area.
73. Care has been taken to ensure that the delegated power is drawn so as to give sufficient certainty as to what the regulations may be expected to contain, for example by including the clarifications as to what the regulations may cover in clause 31(6), set out above.

74. An example of how regulations made in line with clause 31 (6)(a) might be used, could be that the Secretary of State might want to use the thing seized in order to make improvements to approval or authorisation standards in order to improve the safety of future self-driving vehicles. Regarding clause 31(6)(b) an example might be that the item would be sent to a digital forensics expert in order to facilitate investigations which will require provision to ensure that data integrity is maintained. Whilst an example under clause 31(6)(c) might be where a piece of computer hardware was found to contain malware from a hostile state.
75. Before making any regulations, the Secretary of State must consult with such representative organisations as they see fit as per clause 97(2).
76. The regulations are to be made by negative procedure in accordance with clause 97(6).

Justification for the procedure

77. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny and is consistent with the procedure applicable to other powers in existing legislation for the treatment of seized property. For example, provision relating to seized vehicles is made in the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005, made under power conferred on the Secretary of State under section 165B of the Road Traffic Act 1988 or the Taking Control of Goods Regulations 2013 made by negative resolution under section 90 and other provisions of the Tribunals, Courts and Enforcement Act 2007.

Chapter 5- Civil sanctions against regulated bodies

Clause 36 (9)- Monetary penalties

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

78. In order to ensure the continued safety of self-driving vehicles, it is essential that appropriate sanctions are in place where those responsible for self-driving vehicles do not continue to comply with safety or other authorisation requirements. Chapter 5

sets out the civil sanctions that may be brought against an Authorised Self-Driving Entity and/or licensed No-User-in-Charge Operator if they fail to meet the requirements placed on them. The sanctions include compliance notices, redress notices, monetary penalties and cost notices. Criminal sanctions, for the most serious offences, will be put in place and are set out in Part 2 of the Bill.

79. Clause 36 sets out the circumstances under which the Secretary of State may issue a monetary penalty, which requires the ASDE or licensed operator to pay a fine to the Secretary of State. The fine may be a one-off payment or, if the failure is an ongoing failure, it may be a daily amount until the failure is rectified.
80. Clause 36(9) gives the Secretary of State the power to make regulations that set out the maximum fine, for both one-off payments and daily payments. Clause 36(10) allows for the value of the fine to be determined in relation to the turnover of the ASDE or licensed operator, or other organisations connected with the ASDE or licensed operator.
81. The purpose of the regulations is to ensure clarity as to the maximum potential cost to ASDEs and licensed operators of a failure to comply with relevant requirements, and to ensure costs are appropriate in relation to the organisation to which they apply.

Justification for taking the power

82. The ability to issue monetary penalty notices in the event that a regulated body does not meet regulatory requirements, and does not comply with notices issued by the Secretary of State, is an essential part of the enforcement regime for automated vehicles. It is important that the monetary values attached to these notices are clearly set out in order to incentivise compliance and support industry business and financial planning. Without this power there could be uncertainty about potential monetary penalties which could disincentivise new industry deployments, for example by making it harder to get appropriate insurance. It could also weaken the potential compliance benefits as ASDEs and NUICOs might not realise the full implications of non-compliance.
83. It is the Department's view that there is flexibility needed in setting the monetary values, which may need to change over time as the structure of this novel industry matures and to reflect the market environment. Trying to set prescriptive requirements in primary legislation would lead to a substantial risk that they quickly become out of date and ineffective.

84. It is also the Department's view that the monetary values should be subject to consultation with both industry and other stakeholders who could be affected by non-compliance with authorisation or licensing requirements. Providing the power to set these values in secondary legislation would allow time needed to consult on appropriate values and methods of calculation.
85. The proposed regulatory power allows the Secretary of State to make provisions about what counts as "turnover" and how this can be calculated or assessed. These provisions are likely to require a level of detail unsuitable for primary legislation.

Justification for the procedure

86. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power. It is also consistent with the procedure applicable to powers in other legislation for the Secretary of State to set the maximum sum or amounts for monetary penalties. See for example section 40A(3) and 71 of the Competition Act 1998 and sections 111(4) and (6) and 124(5) of the Enterprise Act 2002.

Chapter 6- Other regulatory powers and duties

Clause 40 (1)- Power to require reports from police and local authorities

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

87. In order to ensure effective in-use regulation of self-driving vehicles it is essential that the Secretary of State has access to the information necessary to make decisions on whether to issue sanctions and, if so, which sanctions would be appropriate. It is anticipated that the Police and local authorities will potentially hold information relevant to investigations necessary for the purposes of in-user regulation of self-driving vehicles. For example, speed camera footage providing evidence an authorised vehicle was travelling above the speed limit.
88. Although it is anticipated that enforcement and regulatory bodies would be willing to work closely together and share information where appropriate, the Data Protection Act 2018 prevents the use of personal data collected for law enforcement

purposes from being used for other purposes unless specifically authorised in law. In so far as the data is not law enforcement data, the local authorities should have the clarity of a legal obligation to share, which will define the scope of the obligation.

89. Clauses 40(1) and (2) permits the Secretary of State to make regulations requiring a chief officer of police or local highway and traffic authorities listed in subsection (3) to report relevant incidents that occur within their area of authority. The description of the types of incidents that the police should report will be set out in regulations.
90. Subsections (4) and (5) states that regulations made under this section 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 local authorities.
91. The information that can be requested is further restricted in subsection (6) to information already obtained in the performance of the police or local authority functions (as appropriate).
92. Subsection (7) also states that regulations made under this section may contain provisions about the timing, form and content of reports.

Justification for taking the power

93. There is a need to ensure that all appropriate information is available to the in-use regulator, so that the regulator can make effective decisions about sanctions. This includes information held by the Police and local authorities. The information needed will depend on the use case of the vehicle and the circumstances of the incident. For example, a fatal collision involving both self-driving vehicles and conventional vehicles may result in significant relevant information being held by the Police as a result of their attendance at the scene. In contrast, a report by a member of the public of a self-driving vehicle in a bus lane would require only data from the relevant bus lane cameras within a specific time period, if available.
94. The Secretary of State may wish to make routine requests for information, for example a request for information from the police on all collisions involving a self-driving vehicle, as well as ad-hoc requests, for example the request for limited bus lane camera data given above.

95. This regulation-making powers will set out the circumstances in which requests for information can be made, providing clarity to information holders on the types of reports they may be required to provide. The alternative option would involve having an open power to require reports of information on the face of the Bill, which would provide substantially less clarity and transparency than regulations. Development of and consultation on the regulations in consultation with stakeholders will provide an opportunity to consider the cost implications of requesting information.
96. It is also anticipated that, over time, the potential introduction and/or expansion of technology on our roads, such as greater coverage by CCTV for traffic management purposes and/or the ability to store more traffic data, may change the availability and cost of supplying information. Learnings about the type of information needed may also come from real-world experience. Having this delegated power provides flexibility to alter the nature of information requested over time.

Justification for the procedure

97. Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny, as the power relates to the police and local authorities, and to the details of information that can be required from them. This matter warrants a degree of Parliamentary oversight but since the implications are procedural, this does not in the Department's view require the affirmative resolution procedure. Before making regulations using this power, the Secretary of State would also be required to comply with the requirement in clause 97(2), to consult with such representative organisations as the Secretary of State thinks fit. This will serve as a further safeguard on the exercise of the power.

Clause 42 (3)- Protection of information

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

98. Clause 42 protects information collected as part of authorisation requirements, operator licensing regulations or in-use regulation procedures set out in the bill. As set out in clause 42(1), this information includes: information provided as part of standard reporting requirements set at authorisation or No-User-In-Charge operator

licensing (under clause 14(1) and (2)); information collected through information notices (clause 17); information collected via investigative interview (clause 18); information collected under warrant for investigative purposes (clause 29); and information collected from the police or local authorities (clause 40).

99. This power will enable the Secretary of State to make regulations authorising such information set out in clause 42(1) to be shared with a third party for purposes specified by those regulations (clause 42(3)(a)) or enabling the information to be used for purposes other than the purpose for which it was obtained (clause 42(3)(b)).

100. Clause 42(4) provides further protection of the data shared under these new regulations by making it an offence for parties to disclose the information further than authorised by the regulations or use the information for purposes other than the purpose for which it was obtained other than by regulations. Therefore, persons who are authorised to receive the information could not pass it on to others unless authorised by regulations, nor could it be used for a new purpose not set out in the regulations.

101. Clause 42(7) emphasises that any disclosures made under these regulations do not authorise harm to the commercial interests of persons involved, except where specified in regulatory provisions or necessary to achieve the purpose of those provisions.

Justification for taking the power

102. Information provided to the Secretary of State for regulatory purposes may need to be disclosed to public or private actors to make the scheme effective. For example, insurers will need access to data relating to accidents. The regulations will provide a clear basis in law for processing personal data for new purposes. This is a novel policy area so it is not yet known exactly who information should be shared with, this power will provide flexibility to enable data to be shared for defined purposes as the need is identified through real-world experience but subject to the criminal sanction for unauthorised sharing which is set out on the face of the Bill.

103. The power also provides the flexibility to make regulations allowing the use of data for purposes other than the purpose for which it was obtained. For example, the Secretary of State may wish the data to be used for the purposes of research to improve the setting of authorisation requirements.

104. An alternative example could be where the Secretary of State wishes to share information with strategic or local highway authorities in order to help them plan future infrastructure improvements that would benefit self-driving vehicle

operations. This would likely be aggregate information and is unlikely to be personal data.

Justification for the procedure

105. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power, given that the core framework for protecting information is set out in the primary legislation. It is also consistent with the procedure applicable to comparable powers in existing legislation. See, for example, sections 23 and 24 of the Economic Crime (Transparency and Enforcement) Act 2022, which similarly allow the Secretary of State to make regulations providing for protected information to be disclosed to certain individuals. The power in clause 42(3) will be further constrained by the regulation-making process which, under clause 97(2), requires consultation with such representative organisations as the Secretary of State sees fit.

PART 2- CRIMINAL LIABILITY FOR VEHICLE USE

Chapter 1- Legal position of user-in-charge

Clause 50 (1)- Power to change or clarify existing traffic legislation

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Affirmative procedure if the power is exercised to amend any primary legislation, otherwise negative procedure

Context and Purpose

106. Self-driving vehicles with user-in-charge features will be able to complete only part of a journey in self-driving mode. For example, a vehicle may only have a user-in-charge feature designed for motorway driving and therefore the vehicle could only drive itself on motorways. These vehicles will therefore require a driver for the remainder of the journey when the user-in-charge features are not engaged. In the example above this would be all driving on non-motorway roads.

107. The human driver will become a 'user-in-charge' when the vehicle is in self-driving mode. A user-in-charge will not be responsible for the way the vehicle drives ('dynamic driving'), but will retain responsibility for issues such as insurance, roadworthiness and paying tolls.

108. The concept of a user-in-charge featured prominently in the Law Commissions' recommendations (Recommendations 39 to 49 relate to the role of a user-in-charge). Recommendation 44 recommends that a user-in-charge should not be liable for a criminal offence or civil penalty arising from dynamic driving. This proposal was broadly supported at consultation.
109. The Bill defines a user-in-charge in Clause 46 and provides immunity in respect to driving offences in Clause 47. Some exceptions from immunity are outlined in Clause 48 including, for example, if a user-in-charge deliberately interferes with the vehicle.
110. Clause 50(1) then provides the Secretary of State with the power to make regulations to change or clarify whether or how "enactments" relating to the driving or use of a vehicle, and passed on or before the final day of the session of Parliament in which the Bill is passed, apply to a user-in-charge. As defined in clauses 52(4) and 44(1), "enactment" includes not only primary legislation of the UK Parliament but also subordinate legislation within the meaning of s 21(1) of the Interpretation Act 1978, and Welsh and Scottish primary and subordinate legislation. This is accordingly a Henry VIII power (a power to amend primary legislation through secondary legislation).
111. The purpose of the power in clause 50(1) is to enable the Secretary of State to ensure clear and fair accountability for the way in which a self-driving vehicle drives by providing clarity on the application of existing offences to a user-in-charge.

Justification for taking the power

112. The need for this power was endorsed by the Law Commissions' final report in recommendation 45: "The new Act should include a regulation-making power to adapt the lists of dynamic and non-dynamic offences in the light of experience, including a power to allocate some or all roadworthiness responsibilities to the [company responsible for authorisation of the vehicle as self-driving]."
113. In the Department's view, there are several reasons why it is necessary to include a regulation-making power as recommended by the Law Commission, rather than clarifying the application of each relevant existing offence in the primary legislation. The problem of inconsistent language in existing traffic offences. Although the distinction between dynamic driving offences and non-dynamic driving offences is easy to make in broad terms, it can be complex to apply to the full range of offences facing drivers. Background Paper A of the Law Commissions' report included a table of 81 driving offences, placing them into categories to aid in interpreting the dynamic/non-dynamic distinction.

114. Identifying the range of applicable offences is itself a challenge. Whereas in general dynamic driving offences (from which a user-in-charge should be immune) applied to “drivers” while non-dynamic offences applied to “users” this is not always the case. This is true of some offences: dangerous driving (for example) applies to “a person who drives”, while failing to insure applies to “a person who uses a motor vehicle”. However, there are so many exceptions to this rule that it does not prove useful in practice.
115. Driving offences have accreted over the last 90 years and there is little consistency in who is liable for them. Some non-dynamic offences (such as ensuring children wear seat belts) apply only to drivers. By contrast, some dynamic offences, such as not stopping on a motorway carriageway, apply to all those who “use a motorway”.
116. The heterogeneous nature of traffic regulation orders. It is not possible to draw up full lists of all traffic offences and state whether they are dynamic or non-dynamic. This is partly because so many traffic offences are in effect created by local authorities. It is also because some traffic offences can be committed in both dynamic and non-dynamic ways.
117. Local authorities have wide powers to make orders, which can be contravened in both dynamic and non-dynamic ways. Some orders created by local authorities (such as those relating to failures to pay tolls or parking charges) are non-dynamic. Others, such as wrongful use of a bus lane, are dynamic. The Law Commissions’ second consultation commented on the lack of a standard model for creating TROs. This means that it is simply not possible to list all the many TROs that have been created.
118. Liability of the user-in-charge will depend on the circumstances, some offences can be committed in both dynamic and non-dynamic ways. There are some offences that the user-in-charge will ‘sometimes’ be responsible for depending on the circumstances. No list of offences could be completely exhaustive. For example, it is a criminal offence to stop unnecessarily in an active motorway lane. The user-in-charge should not be responsible for this offence if their self-driving vehicle stops unnecessarily in a motorway lane. However, if the user-in-charge failed to move the vehicle after the end of the transition demand, or they voluntarily abandoned the vehicle on the motorway, then they would become responsible. The Bill provides guidance to the courts on how such offences should be interpreted at clause 48(1). However, if inconsistencies emerged or clarification were needed, the power provides the scope to do this.
119. The challenge of distinguishing offences the user-in-charge should be immune from compared to those for which they should retain liability emerges in the

context of dangerous driving. Although the Law Commissions used dangerous driving and causing death by dangerous driving as archetypal “dynamic” offences (for which the user-in-charge should not be responsible), it is in fact possible to commit the offence in a non-dynamic way (in respect of the dangerous state of the vehicle). The Law Commissions discuss this issue at paras 8.106 to 8.111 of the AV Report. To address this the Law Commissions recommended the creation of a new offence of using an AV in a dangerous state (new section 3C of the Road Traffic Act). Similar (and hidden) issues may well arise with respect to the other offences.

120. The need to account for developments in self-driving vehicle technologies. As the technology and market matures, it is possible that some of the non-dynamic responsibilities that currently fall to a driver may be considered more suited to an ASDE than a user-in-charge. The Law Commissions, for example, noted that a user-in-charge's responsibilities for roadworthiness may change as vehicles become better at self-diagnosing problems - and as ordinary individuals find it more difficult to spot problems. In future the Secretary of State may use the power to allocate some or all roadworthiness responsibilities to the company responsible for authorising the self-driving capabilities of the vehicle. Giving the Secretary of State the power to change which responsibilities continue to apply to the user-in-charge will enable a flexible and future-proof approach to regulating this new technology and supporting its safe deployment over time.
121. Ultimately, the power's scope is limited and carefully bounded by detailed guidance set out on the face of the Bill, including the general principle expressly set out in the Bill in clause 47 (user-in-charge not liable for manner of driving) and examples set out in the same clause stating that the ‘way in which a vehicle is driven includes (for example) the use of signals and lighting but does not include (for example) the condition or qualifications of the driver’. Further examples of existing offences that should continue to apply to a user-in-charge are provided among the exceptions in clause 48 including, for example, offences arising from where a vehicle is parked and failure to pay tolls and charges. Importantly, the most serious driving offences that should not apply to a user-in-charge are listed on the face of the Bill rather than being left within the scope of the regulation-making power: the Bill inserts a new section 3B into the Road Traffic Act 1988, which disapplies sections 1 to 3A of the Road Traffic Act 1988 to users-in-charge.
122. This detailed guidance on the face of the Bill ensures clarity and reduces the areas of uncertainty that may arise. Further, the Government accepted the Law Commissions' recommendation 3 in its final report to issue guidance in the Highway Code regarding activities that a user-in-charge may (or may not) undertake. This will further reduce the scope of uncertainty regarding the proper application of driving offences to users-in-charge.

Justification for the procedure

123. It is the Department's view that the affirmative resolution procedure is appropriate where this power is used as a Henry VIII power to amend primary legislation. The affirmative procedure will ensure that Parliament (as well as the Scottish Parliament and Senedd Cymru, where Scottish or Welsh legislation is amended) can closely scrutinise any regulations changing or clarifying how existing primary legislation applies to the user-in-charge.
124. Where the power is used to amend subordinate legislation, the Department believes the negative procedure will ensure a sufficient degree of parliamentary scrutiny. As explained above, the power may be used to amend a wide range of existing subordinate legislation, including for example traffic regulation orders. It would not be practicable nor appropriate for the affirmative procedure to apply in respect of amendments to these kinds of orders.
125. The consultation requirement in clause 97(2) will apply before the Secretary of State can exercise the power and serves as an additional safeguard.

PART 3- POLICING AND INVESTIGATION

Chapter 1- Stopping and Seizure

Clause 58 (4)- Seizure and detention

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

126. In order to ensure the safety of self-driving vehicles it is essential that the relevant enforcement authorities have the necessary powers to seize and detain self-driving vehicles, as they do for conventional vehicles. The Bill sets out powers for Police officers to seize and detain a self-driving vehicle under specified circumstances. For example, a constable may seize and detain a self-driving vehicle if the constable judges that the vehicle has committed, or is likely to commit, a traffic infraction.

127. Clause 58(4) gives the Secretary of State the power to set out in regulations what should happen to after a self-driving vehicle that has been seized and detained. Clause 58 (7) sets out what the regulations may cover—for example they may:
- a. require the owner of the vehicle to pay charges in respect of the removal, storage or disposal of the vehicle;
 - b. provide for the disposal of the vehicle;
 - c. make provision about the destination of any proceeds of such a disposal;
 - d. provide for a person to be treated as, or presumed to be, the owner of the vehicle for the purposes of the regulations.

Justification for taking the power

128. There is a need to make provisions about what is to happen to a self-driving vehicle that has been seized and detained. These provisions must include details such as the charges to be paid by the vehicle owner and arrangements for disposal of a vehicle, if appropriate. Such provisions are detailed and may change over time, for example in relation to costs and charges. It is important to allow the Secretary of State to make provisions about what is to happen to seized and detained automated vehicles as part of the safe deployment of automated vehicles on the road. There will be different types of owners for these vehicles, and regulations will provide the necessary guidance on how to deal with seized and detained vehicles. The power will enable a flexible and future-proof approach to regulating automated self-driving vehicles.
129. That said, care has been taken to ensure that the delegated power is drawn so as to give sufficient certainty as to what the regulations may be expected to contain, for example by including the clarifications as to what the regulations may cover in clause 58(7), set out above.

Justification for the procedure

130. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny and is consistent with the procedure applicable to other powers in existing legislation for seized and detained conventional vehicles. For example, the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 which exercises the power conferred on the Secretary of State under section 165B of the Road Traffic Act 1988.

Chapter 2- Investigation of incidents by statutory inspectors

Clause 60 (3): The role of inspector

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and purpose:

131. The Clauses under the heading 'Investigation of incidents by statutory inspectors' allow for the creation of a capability within Government to investigate road incidents involving automated vehicles. The clauses give appointed inspectors the necessary powers to effectively investigate automated vehicle safety incidents and make safety recommendations to those best placed to implement positive change. This follows the model of the [UK Air Accidents Investigation Branch](#), [Marine Accident Investigation Branch](#) and [Rail Accident Investigation Branch](#). The creation of a capability to investigate automated vehicle incidents is a critical part of the automated vehicle safety and regulatory framework and will help to assure the safety of automated vehicles on GB roads.
132. Clause 60 creates the role of an inspector of automated vehicle incidents. Subsection (3) confers a power for the Secretary of State to make regulations about how the functions of an inspector of incidents are to be exercised.
133. The Secretary of State cannot direct or instruct an inspector due to their investigatory independence, however it is necessary for an inspector to have the appropriate flexibility as well as limitations when investigating incidents and exercising their functions. This provision will enable the Secretary of State to prescribe and limit how an inspector exercises their functions. For example, it could be written in regulations that inspectors are required to investigate all incidents involving more than two fatalities or that they must attend each incident with another inspector instead of attending individually.
134. It would be unreasonable to allow an inspector to exercise their functions in any way they deem appropriate, nor would the Department expect an inspector to feel comfortable to act without further prescriptions regarding any requirements or limitations placed upon them. The Department acknowledges that an inspector's functions and powers are wide-ranging and while these are in line with legislation from other safety-critical industries, further regulations are required to ensure the appropriate checks and balances are in place. These will enable an inspector to undertake an effective investigation and provide

confidence to the public, and the Secretary of State, that their actions are fair and proportionate.

135. Furthermore, to ensure investigations are fair, transparent, and effective, it is necessary for the regulations to be created that define the standard operating procedures of an inspector, particularly as undertaking safety investigations will continue to develop in line with the market for automated vehicles. Finally, these regulations could make certain types of incidents as out of scope of an inspectors' investigatory remit. For example, these regulations could exclude certain types of incidents, such as a terrorist event or suicide from being regarded as a relevant incident. Equally, these regulations could stipulate that certain types of incidents are excluded only under specific circumstances, for example, in relation to terrorism, the intention is that a cyber-attack from a malicious actor that had the intent to take control of the vehicle and cause a multi-vehicle road traffic collision on a motorway would be in scope for an inspector to investigate.

Justification for taking the power

136. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 Principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
137. These regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the recent [Health and Care Act 2022](#), which provides a similar regulatory framework, along with the [Railways and Transport Safety Act 2003](#) that provides equivalent provisions. The Department believes that it has proportionately balanced further regulation-making powers to prescribe and limit how the functions of an inspector are to be exercised.
138. The functions and powers of an inspector are wide ranging and require limitations to be put in place to ensure that fair, transparent, and effective investigations are undertaken, including an inspector's day-to-day decisions. It is necessary to specify how the functions of an inspector are to be exercised, including their standard operating procedures and other due process that must be followed. The intention of this regulation-making power is to ensure that an inspector's activities are regulated appropriately, rather than providing the Secretary of State with the power to instruct an inspector, which would

contravene the fundamental principles of conducting a safety investigation. The Department wishes to develop the detail of the provisions in line with continued development of automated vehicle technology and further consultation with stakeholders.

139. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is enshrined in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). Due to the sensitives around creating offences in secondary legislation, the Department intends to further consult on the parameters for creating offences. This will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

140. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 63 (2): Powers in respect of persons

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and purpose

141. Clause 63 provides a power in respect of persons. Clause 63(1) empowers an inspector of authorised automated vehicle incidents to require a person to provide assistance to them for the purposes of an investigation, if they consider it necessary. This provision provides that this may include an inspector requiring a person to take positive action to provide them with or allow them access to information, items, or material, as well as requiring a person to refrain from doing something, such as disturbing, altering or moving anything specified by the inspector. For example, this could include a person providing access to an automated vehicle and the associated data that has been collected during the

period around an incident of interest. From this, an inspector may require further assistance from the original equipment manufacturer to access a component of an automated vehicle, such as the solid-state drive, to retrieve vehicle data. It could be the case that the original equipment manufacturer is the only organisation with the necessary tools to undertake this task, which could be a common scenario considering proprietary design, software, and data.

142. Subsection (2) confers a power for the Secretary of State to make regulations that that allow for other required forms of assistance to be outlined in regulations.
143. This provision will enable an inspector to require varied forms of assistance from a person for the purposes of an investigation, if the inspector considers it necessary to do so. For example, this may include access to a person of interest and requiring further assistance from that person; an inspector may require the driver of a vehicle that has been involved in an incident to provide them with information that enables the inspector to contact a key witness. The inspector then may require further assistance from that witness, such as accessing their dashboard camera footage. This means that an inspector needs to have the flexibility and power to require assistance from a person or organisation for the purpose of an investigation, as without this, an investigation could be significantly hindered or prevented from developing safety learning.
144. These regulations may also put limits on the forms of assistance that can be required, for example, they could state that an inspector is only to require assistance in the case where technical expertise or equipment is absent, or that assistance should not be required from an organisation where there is a commercial conflict of interest or would hinder marketplace competition.

Justification for taking the power

145. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
146. These regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the most recent being through the [Health and Care Act 2022](#), which provides a similar regulatory framework, along with the [Railways and Transport Safety Act 2003](#) that provides equivalent provisions. The

Department believes that it has proportionately balanced further regulation-making powers to prescribe and limit the use of the powers given to inspectors.

147. An inspector may require varied forms of assistance during an investigation into an incident involving an automated vehicle. For example, at a live scene of an incident, an inspector may require the assistance of a [National Highways](#) Traffic Officer to support the police in road closure activities. Equally, an inspector may require the assistance from industry when undertaking a physical examination of an automated vehicle. Finally, when developing a report and the associated recommendations, an inspector may wish to consult with academia or other road safety organisations.
148. Furthermore, an inspector may require other forms of assistance from those persons who are not associated with an organisation or professional body, particularly members of the public who may have key evidence, such as dash camera footage. The Department does not expect an inspector to require the same form of assistance compared to those other persons, such as from an original equipment manufacturer, excluding exceptional circumstances.
149. The Department acknowledges that the functions and powers of an inspector are wide ranging and require limitations to be put in place to ensure that fair, transparent, and effective investigations are undertaken. To ensure there are appropriate checks and balances in place, the Department considers it necessary to have a regulation making power to require other forms of assistance where necessary. The intention of this regulation making power is to ensure that an inspector's functions are regulated appropriately. To ensure that organisations, other bodies, and the public can be handled effectively by an inspector, the Department further wishes to develop the detail of the provisions in line with continued development of automated vehicle technology and further consultation with stakeholders.
150. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). The Department intends to further consult on the limits that should be put in place through a consultation, which will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

151. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny. The inspectors who will be able to impose requirements are restricted by the primary legislation that prescribes their scope

and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 67 (3): Application to police officers

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and purpose:

152. There are no existing powers that could be used by the Department to make regulations that govern the relationship between inspectors of incidents involving an automated vehicles and police constables.
153. Clause 67, specifically subsections (1) and (2), will enable an inspector to exercise their powers in relation to a police constable in the same way they would with any other person, such as a member of the public or a [National Highways](#) Traffic Officer. Subsection (3) confers a power for the Secretary of State to make regulations that specify the circumstances in which an inspector is not to exercise a power in relation to a constable, circumstances in which a constable is not required to comply with a requirement of an inspector, and circumstances in which a constable does not commit an offence under clause 66.
154. Given that a parallel criminal investigation will have first claim to evidence from an incident of interest, it is highly likely that the evidence relevant to an investigation being undertaken by an inspector will be in the possession of a police force. To ensure a fair, transparent, and effective investigation can be undertaken by an inspector, subsection (2) enables an inspector to request and access to a place where the constable is investigating, and/or to information, items, or material under the control of the police. In addition, inspectors may require the constable to allow the inspector to interview a witness to the incident in advance of any other interview of that witness.
155. An inspector will only be able to request and access information or physical material from a police constable under certain circumstances. This includes if the request relates to an incident an inspector is empowered to investigate and the information or physical material is held by the constable or their respective police force in connection with an investigation conducted by the constable or police force.

156. The Department acknowledges that there are circumstances where a police constable will not be able to comply with a requirement of an inspector due to operational reasons, and these should be set out in regulations. Subsection (3), therefore confers a power for the Secretary of State to make regulations that define the circumstances in which: an inspector is not permitted to exercise a power in relation to a constable, a constable is not required to comply with a requirement of an inspector, and circumstances in which a constable does not commit an offence under clause 66. For example, these regulations could state that a police constable is not required to comply with a requirement from an inspector, if complying would adversely affect an investigation the constable is conducting. Furthermore, these regulations could state that a police constable is not required to provide assistance to an inspector until the inspector has satisfied a condition, such as providing their identity card.

Justification for taking the power:

157. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
158. These regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the most recent being through the [Health and Care Act 2022](#), which provides a similar regulatory framework, along with the [Railways and Transport Safety Act 2003](#) that provides equivalent provisions. The Department believes that it has proportionately balanced further regulation-making powers to prescribe and limit the use of the powers given to inspectors.
159. An inspector may require varied forms of assistance from police constables during an investigation into an incident involving an automated vehicle, requesting including access to information, physical material, and witnesses. For example, at a live scene of an incident, an inspector may require the assistance of a police constable to manage the collection of specific evidence not of interest to the parallel police investigation. Furthermore, during the detailed investigation phase, an inspector may require further assistance from a police constable to access witnesses and or technical experts. This means that an inspector will need the power and flexibility to work cooperatively with the police to ensure a safety investigation can be effectively conducted.

160. Due to the nature of investigating road traffic incidents, it is inevitable that an inspector is going to need to require assistance from a police constable, particularly during the rollout of automated vehicle technology, and during an investigation into an incident involving an automated vehicle. However, the Department understands that a police constable has the core duties to protect life and property, preserve order, preventing the commission of offences and bringing offenders to justice. For a police constable to effectively undertake their functions and powers, there may be circumstances where they must refuse an instruction or request from an inspector undertaking a safety investigation. This means that a police constable needs to be protected from committing an offence.
161. To ensure that a safety investigation does not hinder or unreasonably affect a police constable undertaking their lawful duties, the Department believes it is necessary to create regulations that specify the circumstances where a police constable does not commit an offence if they refuse to comply with a request of an inspector. The intention of this regulation-making power is to ensure that an inspector can reasonably direct requests to a police constable but also ensure that an inspectors' powers are suitably regulated. The Department wishes to develop the detail of the provisions in line with continued development of automated vehicle technology and further consultation with stakeholders, including the police.
162. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). The Department intends to further consult on the limits that should be put in place through a consultation, which will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

163. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations will apply limits on what inspectors may do in relation to constables, in addition to the constraints already placed on them by the primary legislation in relation to their purpose and functions. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 68 (3) Report of findings

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and purpose:

164. As a result of creating a power for inspectors to conduct investigations into relevant incidents, clause 68 creates a duty on inspectors to report the findings of their investigations (if any) to the Secretary of State.
165. Subsection (3) confers a power on the Secretary of State to make regulations that relate to reports. Subsection (4) provides that they may make provision as to:
 - a. the form of a report;
 - b. the time by which a report must be made;
 - c. the circumstances in which a report must or must not make recommendations;
 - d. whether and how interested persons are to comment on a draft report;
 - e. publication of reports;
 - f. in the admissibility of reports in judicial proceedings; and,
 - g. how an inspector is to monitor and take action further to the recommendations in a report.
166. This provision will require an inspector of automated vehicle incidents to report any findings to the Secretary of State upon completion of an investigation into an incident involving an authorised automated vehicle. The report should be written factually, neutrally, and not purport to apportion blame or liability, as this is a fundamental element of safety investigation. Reports must be written in a fair and transparent manner, allowing interested persons to comment, such as highway authorities, an original equipment manufacturer, or a government

department. The final report should include recommendations on how safety may be improved; future incidents may be prevented; and how future incidents may be made less severe, as well as provide a framework for monitoring recommendations. A recent example of a [report](#) is from the Health Services Safety Investigation Branch ([HSIB](#)), which undertook an investigation into the harm caused by delays in transferring patients to the right place of care.

167. This provision will enable regulations to be created that prescribe, for example, the form, timing, and publication of reports into an investigation into an automated vehicle. The Department acknowledges that these regulation-making powers are extensive, however, it is important that reports are appropriately regulated and appropriately responsive due to the impact these have on the real-world, particularly regarding recommendations. For example, these regulations could define the circumstances where a safety recommendation should not be issued if the investigation concluded that the incident is one-of-a-kind, and the remediation activities would significantly hinder the organisation best placed to respond. Furthermore, the regulations could define that a 'significant hinderance' includes causing financial or organisation distress, as well as attempting to develop a technological solution where investment is never returned.

Justification for taking the power:

168. The market of authorised automated vehicles is at an early stage of development, and it is not yet clear how much of a positive impact on road safety these vehicles will have. However, safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
169. The reports produced by the investigation capability should follow a set format; however, this format may change over time. It may also be necessary for the Secretary of State to change the circumstances in which a report is or is not made, whether it may or may not make a recommendation, and other parameters associated with the production and publication of reports. It would not be practicable to create new primary legislation every time these parameters are changed, nor would it be proportionate to include a Henry VIII power to amend primary legislation for small administrative matters such as these; in this case, a regulation-making power is considered appropriate.

170. Furthermore, the Department recognises that while the precedent of safety investigation has historically been set, automated vehicle technology is not yet fully understood and is rapidly changing. There may be unique differences in the way reports and recommendations may be created and issued, particularly during a time where the technology is being trialled and rolled out. There is the recognisable risk of damaging innovation, competition, and public confidence by following rigid precedent, so the Department wishes to develop the detail of the provisions in line with continued development of automated vehicle technology.
171. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). Furthermore, due to the potential differences in report and recommendation crafting for automated vehicle technology that policy may need to consider, the Department intends to further consult on these regulation-making powers through a consultation, which will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

172. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and purpose. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 69(1): Appointment of additional persons to exercise investigatory powers

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and purpose:

173. There are no existing powers that could be used by the Department to make regulations that would enable an inspector of automated vehicle incidents to appoint additional persons to conduct or participate in an investigation and/or

exercise investigatory powers during an investigation into a relevant incident concerning an authorised automated vehicle.

174. Clause 69(1) confers a power on the Secretary of State to make regulations requiring or permitting an inspector to appoint a person to conduct or participate in an investigation, which includes conferring powers of an inspector for the purposes of an investigation.
175. This provision will allow an inspector to have greater flexibility when undertaking an investigation, including potentially delegating an aspect of an investigation to a person with specific expertise. For example, in the case where an automated vehicle requires a forensic examination, an inspector could appoint a Forensic Collision Investigator to assume the role of an inspector to carry out a full examination of the vehicle. This person could also temporarily be provided with the same powers as a permanently appointed inspectors of automated vehicles. The regulations could also limit or exclude certain powers from being transitioned to a person, such as powers of entry.
176. Another example of provision that could be made in these regulations could be that an inspector is only to appoint such persons where technical expertise or equipment is otherwise absent. On the other hand, these regulations could exclude certain circumstances, such as prohibiting the appointment of a person or prohibiting the conferring of a discretionary function on a person, where doing so may present a commercial conflict of interest or hinder marketplace competition.

Justification for taking the power:

177. The market of automated vehicles is at an early stage of development, and it is not yet clear what positive or negative impact on road safety these vehicles will have. However, safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with UK based and international safety authorities, such as the UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
178. These regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the most recent being through the [Health and Care Act 2022](#), which provides a similar regulatory framework, along with the [Railways and Transport Safety Act 2003](#) that provides equivalent provisions.

179. The Department acknowledges that investigating a road traffic incident is complex and there are a range of individuals, organisations, and stakeholders involved throughout. This means that an inspector needs to have a clear understanding of what falls within the limits of their expertise, whilst having the power and flexibility to investigate incidents by bringing in outside expertise that they consider appropriate for discovering, understanding, or reducing the risks of harm arising from automated vehicles.
180. An inspector may require varied forms of assistance, particularly considering that the market of automated vehicles is at an early stage of development. There will be circumstances where an inspector may not have the required experience, expertise, or tools to undertake a specific task that is critical to undertaking a fair, transparent, and effective investigation. For example, an inspector may need the support of an original equipment manufacturer to access a component of an automated vehicle, such as the solid-state drive, to retrieve vehicle data. It could be the case that the original equipment manufacturer is the only organisation with the necessary tools to undertake this task, which could be a common scenario considering proprietary design, software, and data. This means that an inspector needs to have the flexibility and power to appoint a person or organisation to conduct or participate in an investigation, as without this, an investigation could be significantly hindered or prevented from developing safety learning.
181. The Department recognises that an inspector cannot be an expert in every aspect of automated vehicle technology, particularly considering the ever-changing nature and rapid development of the technology and marketplace. This means flexibility is needed to potentially delegate an aspect of an investigation to a person with specific expertise. Without this regulation-making power, there is a risk that an investigation could be significantly hindered if an inspector cannot access the necessary expertise or tools, which has the risk to obstruct the overall policy intent. As such, the Department wishes to develop the detail of these provisions in line with continued development of automated vehicle technology.
182. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#).

Justification for the procedure:

183. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the role of inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and purpose. This procedure reflects the long-established

approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 70 (1): Additional power in respect of information and material

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and purpose:

184. There are no existing powers that could be used by the Department to require a person to provide to an inspector of incidents information, or allow access to, items, or material outside of a specific investigation.
185. Clause 70(1) confers a power for the Secretary of State to make regulations requiring a person to provide to an inspector, or allow an inspector access to, information, items, or material, other than in response to a request under clause 63, in the manner specified in regulations.
186. This may include requiring a vehicle manufacture to provide access to information that demonstrates where an automated vehicle has failed to respond to a rule of the road, such as a red traffic light, or to a user command in an unexpected way. An inspector needs to have the flexibility and power to require a person or organisation to provide access to information, items, or material, as without this, valuable safety learnings may not be realised for more thematic safety reports that do not focus on a single relevant incident.
187. Subsection (2) provides that such regulations must specify the purpose for which the information, items, or material is or are to be provided to an inspector. This must be in line with the purposes of an investigation or any other function of an inspector.
188. Subsection (3) provides that such regulations can create an offence under clause 76.
189. These regulations may also put limits on the forms of obtaining material other than on request, for example, they could state that an inspector is only to require assistance in the case where technical expertise or equipment is absent, or that

assistance should not be required from an organisation where there is a commercial conflict of interest or would hinder marketplace competition.

Justification for taking the power:

190. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
191. These regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the most recent being through the [Health and Care Act 2022](#), which provides a similar regulatory framework, along with the [Railways and Transport Safety Act 2003](#) that provides equivalent provisions.
192. On the creation of offences specifically, due to the ever-changing nature of automated vehicle technology, it is unclear whether further offences may be required. As such, this provision is necessary to ensure the Secretary of State can respond to potential issues in the future. However, unlike some other regulation-making provisions, the Secretary of State is limited (in England and Wales) to only creating an offence with a punishment of a fine of up to £1,000 (as of date of drafting) and/or imprisonment for a term not exceeding two years (see clause 76).
193. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is enshrined in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). Due to the sensitivities around creating offences in secondary legislation, the Department intends to further consult on the parameters for creating offences. This will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

194. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny. The inspectors who will be able to impose requirements are restricted by the primary legislation that prescribes their scope

and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 71 (1): Obtaining reports from police

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and purpose:

195. There are no existing powers that could be used by the Department to make regulations that enable an inspector of automated vehicle incidents to require a chief officer of police to report particular incidents to inspectors. The regulations may limit the requirement to cases in which an inspector requests a report. Any requirement or requests will be for the purpose of for discovering, understanding, and/or reducing the risks of harm arising from automated vehicles.
196. Clause 71 enables an inspector to obtain reports from police. Subsection (1) confers a power for the Secretary of State to make regulations that require a chief officer of police to report to an inspector of incidents that occur within their police force area and are of a description set out in the regulations.
197. For an inspector to achieve their primary objectives of preventing or reducing harm to individuals in relation to incidents that involve automated vehicles, this power will require a chief officer to notify and share details of incidents of interest within their police force area. Regulations will be made to set out the types of incidents that require notification. For example, when automated vehicles are first deployed onto public roads, it may be the case that an inspector will attend the scene of a fatal incident involving an automated vehicle in real time, rather than investigating based on the evidence collected by other organisations, such as the [police](#), [National Health Service](#), and [National Highways](#).
198. These notifications will be essential for an inspector to make the right decisions regarding when to urgently deploy to a live scene or respond on a non-urgent basis. The Department acknowledges that there are circumstances where a chief officer will not be able to provide the reports to an inspector due to operational reasons, and these should be set out in regulations. These regulations could also specify circumstances in which an inspector is not to request a report from a chief

officer, for example where it relates to matters of national security and/or a terrorist event. Regulations may also limit the requirement to cases in which an inspector actively requests a report.

199. The regulation-making powers in this paragraph will limit, prescribe, and specify the circumstances where a chief officer is and is not required to provide report incidents that occur within their police force area. For example, these regulations could state that a chief officer is not required to comply with a request from an inspector, if complying would adversely affect an investigation their police force is conducting. Furthermore, these regulations could state that a chief officer is not required to provide reports to an inspector until the inspector has satisfied a condition, such as providing proof of their functions and powers, for example to enable the police to comply with data protection requirements..

Justification for taking the power:

200. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).
201. These regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the most recent being through the [Health and Care Act 2022](#), which provides a similar regulatory framework, along with the [Railways and Transport Safety Act 2003](#) that provides equivalent provisions. The Department believes that it has proportionately balanced further regulation-making powers to prescribe and limit the use of the powers given to inspectors.
202. An inspector may require ongoing reports and incident notifications from a chief officer of police during the continued development and rollout of automated vehicle technology, and during an investigation into an incident involving an automated vehicle. The most likely initial use of the power is to require notification whenever an automated vehicle has been involved in an incident, regardless of whether there has been a serious injury or fatality. This will mean that an inspector has a full picture of the incident landscape, which will inform their individual and thematic investigations. An inspector will need to have the power and flexibility to work cooperatively with the police to ensure a safety investigation can be effectively conducted.

203. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). The Department intends to further consult on the limits that should be put in place through a consultation, which will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

204. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to reporting requirements inspectors may make of chief officers of police, inspectors themselves are restricted by the primary legislation in relation to their scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 72 (2): Ancillary functions

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and purpose:

205. There are no existing powers that could be used by the Department to require an inspector of automated vehicle incidents to carry out further functions in addition to those in preceding clauses. Clause 72 will enable inspectors of authorised automated vehicle incidents to publish critical safety information relating to investigations into incidents involving automated vehicles, to support the functions of other persons or investigatory bodies, such as the [police](#), or an accident investigation branch, whether in the UK or internationally. It also enables the inspectors to assist such persons in doing anything the inspector considers would contribute to the purpose in section 61, or an equivalent purpose outside GB. Inspectors may also carry out any other functions as they consider contributes to the purpose in clause 61 more generally.
206. Subsection (2) confers a power for the Secretary of State to make regulations that require an inspector to exercise the above powers in such manner as specified, and that limit the way any such powers may be exercised.

207. The regulations will give an inspector a clear understanding of the safety information they are required to publish as distinct from that which they have discretion to publish. For example, regulations may require that inspectors publish safety information that could help reduce the risk of harm arising from authorised automated vehicles. An inspector must only publish safety information for the purposes outlined in clause 61. For example, these regulations could require an inspector to release safety critical information, (such as '[safety digests](#)' to mirror those that the Marine Accident Investigation Branch ([MAIB](#)) release to prevent similar incidents from happening again) ahead of a report being published if there is immediate threat to life. These regulations could also make note to other information an inspector may wish to publish, such as safety warnings pending further investigation, if there is a safety concern that has been identified across different investigations.
208. This provision will also enable an inspector to have a clear understanding of their role in assisting other investigatory bodies in pursuit of achieving their objectives of preventing incidents involving automated vehicles or reducing the damage caused by those incidents that do occur. These regulations may define the circumstances in which and in what ways an inspector can support other investigatory bodies. For example, these regulations could specify that an inspector can only provide technical support to the police during an investigation so as not to bring into question the perception of an inspector's role when in proximity to matters that would apportion blame or liability. However, the regulations could also stipulate that an inspector must support the Air Accident Investigation Branch ([AAIB](#)) during an investigation into an autonomous drone that is equipped with advanced technologies that enables it to operate without the need for constant human intervention, by sharing any safety learning to be applied in the automated vehicle industry, which could prevent an incident from occurring in the future.
209. This delegated power will enable regulations to be created that specifies the safety information that must be made publicly available, as well as define the circumstances where an inspector could provide support to other investigatory bodies. These regulations will not contradict the other provisions and be intrinsically linked with preventing incidents involving automated vehicles and the reducing damage of those incidents that do occur.

Justification for taking the power:

210. The market of automated vehicles is at an early stage of development, and it is not yet clear how much of a positive impact on road safety these vehicles will have. However, safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and powers of an inspector, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that

define the investigatory independence, capability and operating procedures of a safety investigation. This includes working with existing UK based and international safety authorities, such as the existing UK accident investigation branches, the [Norwegian Safety Investigation Authority](#), and the United States [National Transportation Safety Board](#).

211. Further to this, these regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the recent [Health and Care Act 2022](#), which provides a similar regulatory framework.
212. However, the Department is mindful that automated vehicles are not yet publicly available, and the technology is not fully understood and continues to rapidly change. There may be unique differences in the way that safety information should be made available, particularly during a time where the technology is being trialled and rolled out. Furthermore, there may be the need for interrogation of an inspector's role when supporting another investigatory body, especially if there is a potential conflict of interest around apportioning blame and liability. There is a recognisable risk of legislation enabling inspectors to make decisions that hinder the overall policy intent, so the Department wishes to develop the detail of the provisions in line with continued development of automated vehicle technology.
213. Due to the ever-changing nature of automation technology in general, the Department intends to further consult on publishing safety information and how inspectors are to support other investigatory bodies. This is due to sensitivities around emerging technologies and the appropriateness of an inspector assisting bodies who are responsible for apportioning blame and liability. It is likely that the type of information an inspector should publish may change over time, for example in response to changes in industry best practice, or to allow for the immediate publication of urgent safety information within a particular time frame. It may also be necessary to change the circumstances in which an inspector may, or must, assist another organisation, for example due to changes in market structures, international obligations, or the geo-political climate. It would not be appropriate to put this level of detail in primary legislation when it is subject to change – to do so would require a Henry VIII power, which would not be appropriate.
214. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). Furthermore, due to the potential differences in report and recommendation crafting for automated vehicle technology that policy may need to consider, the Department intends to further consult on these regulation-making powers

through a consultation, which will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure:

215. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to hold a public consultation on these regulations prior to laying secondary legislation.

Clause 73 (2): Protection of information

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and purpose

216. There are no existing powers that could be used by the Department to protect information as defined in subsection (1), which applies to information obtained by an inspector in connection with the inspector's functions, namely through the conduct of an investigation.
217. Clause 73 makes provision to protect information that is obtained by an inspector in connection with their functions. Subsection (2) confers a power on the Secretary of State to make regulations authorising the disclosure of information in subsection (1) for a specific purpose provided in the regulations, and to make other provision about how the information is to be dealt with. For example, the regulations may allow for an inspector to disclose such information to non-inspector members of the investigative capability for purposes relevant to the investigation, such as handling the information for the administrative tasks of collating evidence or transcribing interviews. Subsection (3) provides that regulations may permit or require the retention or destruction of information, disapply powers under other enactments which might otherwise be used to obtain the information, make provision about admissibility of the information in judicial proceedings, and confer jurisdiction on a court or tribunal.

218. Regulations will set out how an inspector is to handle the information obtained during and at the conclusion of an investigation. For example, these regulations could define that certain information is sensitive and should be protected, meaning it cannot be disclosed. This could include records that reveal the identity of persons who have given evidence in the context of the safety investigation, including third-party experts, or all information collected by an inspector which is of particularly sensitive nature. A real-world example of this type of regulation is in the [Crown Prosecution Service Memoranda of Understanding](#) between the existing accident investigation branches. Moreover, these regulations may set out a process for the return or destruction of information, which may include defining the timescales for how long an inspector may hold information and the procedure for destroying proprietary data.
219. Furthermore, the Secretary of State will be able to confer jurisdiction on a court or tribunal to determine disputes relating to how information obtained by an inspector is to be dealt with. For example, a police force may want certain types of evidence or information collected by an inspector as part of their own criminal investigation that the inspector cannot divulge. Under these regulations and in line with existing practice for other investigation bodies, the police force may apply to the relevant court for release of this information for their own purposes and provide arguments as to why the protection of the information should be lifted. If the court agrees, the inspector would then be able to lawfully disclose this information to the police.
220. This delegated power will enable regulations to be created that prescribes the way an inspector must handle and protect information. These regulations will not contradict the other provisions and be intrinsically linked with preventing incidents involving automated vehicles and the reducing damage of those incidents that do occur.

Justification for taking the power

221. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and operating procedures of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes procedures around the collection, retention, and destruction of evidence.
222. Further to this, these regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the recent [Health and Care Act 2022](#), which provides a similar regulatory framework.

223. The circumstances in which an inspector should retain or destroy information collected during their investigation may change over time, as may other policies around evidence, for example the period for which data must be retained, a time limit by which data must be deleted, or the circumstances in which information may be admissible in judicial proceedings. It would not be practicable to create new primary legislation every time these parameters were changed, nor would it be proportionate to include a Henry VIII power to amend primary legislation for administrative matters such as these; therefore, we consider a regulation-making power appropriate.
224. There is a clear precedent set by the UK accident investigation branches that protects sensitive personal information that a safety investigation authority has obtained during its investigations from wider disclosure. This applies only to the most sensitive personal information to ensure it is not used unnecessarily. It is appropriate to set out the detail of this in regulation and the Department believes that it has proportionately balanced the need for further regulation-making powers to limit the powers of inspectors where appropriate.
225. To ensure investigations are fair, transparent, and effective, it is necessary for the regulations to be created that define the standard operating procedures of an inspector, particularly around the retention or destruction of information. Any individual or organisation who is involved in an investigation should not be unnecessarily disadvantaged, for example, if an organisation provides an inspector with information, then this should be appropriately preserved, which includes its safe return or destruction. These provisions will enable an inspector to manage evidence while providing individuals and organisations with the confidence their information is not being mismanaged and they are being treated fairly.
226. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#).

Justification for the procedure

227. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to conduct a public consultation on these regulations prior to laying secondary legislation.

Clause 74 (5): Further provision about physical evidence

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and purpose

228. There are no existing powers that could be used by the Department to define how items or material obtained by an inspector in connection within the inspector's functions are to be dealt with.
229. Clause 74(5) confers a power for the Secretary of State to make regulations about the use of items and materials. These regulations may authorise the retention or use of an item or material for the purposes other than those for which it was obtained, authorise the delivery of an item or material to a person other than its owner, and authorise the destruction of an item or material. Regulations may also make provision about the admissibility in judicial proceedings of evidence relating to an item or material, create an offence (see further section 76), and confer jurisdiction on a court or tribunal.
230. An inspector will be required to handle items and physical material during an investigation, meaning regulations are needed to set out due process. For example, these regulations may set out a process for the return or destruction of physical evidence, which may include defining the timescales for how long an inspector may hold evidence and the procedure for destroying such evidence.
231. Clause 74(6)(e) provides that the regulations may create an offence under this clause if this is deemed appropriate (see clause 76 for details).
232. Clause 74(6)(f) provides that the regulations may confer jurisdiction on a court or tribunal to determine disputes relating to how items or material obtained by an inspector is to be dealt with.
233. This delegated power will enable regulations to be created that prescribes the way an inspector must handle items and material. These regulations will not contradict the other provisions and be intrinsically linked with preventing incidents involving automated vehicles and the reducing damage of those incidents that do occur.

Justification for taking the power

234. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and operating procedures of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes procedures around the collection, retention and destruction of physical material or evidence.
235. Further to this, these regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the recent [Health and Care Act 2022](#), which provides a similar regulatory framework.
236. The circumstances in which an inspector should retain or destroy physical material collected during their investigation may change over time, as may other policies around evidence, for example the period for which evidence must be retained, a time limit by which evidence must be returned or destroyed, or the circumstances in which evidence may be admissible in judicial proceedings. It would not be practicable to create new primary legislation every time these parameters were changed, nor would it be proportionate to include a Henry VIII power to amend primary legislation for administrative matters such as these; therefore, we consider a regulation-making power appropriate.
237. Furthermore, to ensure investigations are fair, transparent, and effective, it is necessary for the regulations to be created that define the standard operating procedures of an inspector, particularly around the preservation of physical material, its use, disclosure, and destruction. Any individual or organisation who is involved in an investigation should not be unnecessarily disadvantaged by decisions and actions by an inspector. For example, if an organisation provides an inspector with information or physical material, these items should be appropriately dealt with, which includes its safe return or destruction. These provisions will enable an inspector to manage evidence while providing individuals and organisations with the confidence their physical material is not being mismanaged and they are being treated fairly.
238. On the creation of offences specifically, due to the ever-changing nature of automated vehicle technology, it is unclear whether further offences may be required. As such, this provision is necessary to ensure the Secretary of State can respond to potential issues in the future. Punishment associated with any offences created are subject to the limitations in Clause 76.
239. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into

account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#).

Justification for the procedure

240. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to conduct a public consultation on these regulations prior to laying secondary legislation.

Clause 75 (1): Expenses

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and purpose

241. There are no existing powers that could be used by the Department to make arrangements regarding expenses, costs, or losses arising from an inspector exercising their functions.
242. Clause 75(1) confers a power for the Secretary of State to make regulations entitling the Secretary of State to recover expenses, costs or losses incurred in or in connection with the exercise of an inspector's functions. It also enables the Regulations to make provision for the recovery of such expenses, costs, or losses by any other person, including the inspector, from the Secretary of State. Clause 75(2) further allows for the regulations made to be able to confer jurisdiction on a court or tribunal to allow them to adjudicate disputes.
243. To ensure investigations are fair, transparent, and effective, it is necessary for the regulations to be created that ensure any individual or organisation who is involved in an investigation is not unnecessarily disadvantaged. For example, organisations should not suffer significant financial detriment due to complying with requests, and as such should be compensated for expenses, costs, or losses incurred as provided for in regulations. This means that regulations may require receipts or other records to be produced.

244. This delegated power will enable an inspector to confidently undertake investigations into incidents involving automated vehicles, as well as those involved in incidents to have confidence, that they will not be financially disadvantaged.

Justification for taking the power

245. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and operating procedures of an inspector of incidents, the Department has been guided by international standards and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes procedures around the collection, retention and destruction of physical material or evidence.
246. Further to this, these regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the recent [Health and Care Act 2022](#), which provides a similar regulatory framework.
247. The circumstances in which a person is able to recover from the Secretary of State costs incurred in connection with the exercise of an inspector's functions may change over time, for example the type of costs that may be recovered, the time period in which a claim must be made to be considered, and the requirements attached to any claim for recompense, such as the production of evidence of the costs incurred. Similarly, the circumstances in which the Secretary of State able to recover from another person costs incurred in connection with the exercise of an inspector's functions may change over time.
248. It would not be practicable to create new primary legislation every time these parameters were changed, nor would it be proportionate to include a Henry VIII power to amend primary legislation for administrative matters such as these; therefore, we consider a regulation-making power appropriate.
249. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#).

Justification for the procedure

250. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their

scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. Furthermore, there is a requirement to conduct a public consultation on these regulations prior to laying secondary legislation.

PART 4- MARKETING RESTRICTIONS

Clause 78 (1)- Restriction of certain terms to authorised automated vehicles

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

251. The Law Commissions' report received strong support for banning unauthorised 'self-driving' vehicles. However, given international obligations, such as those under the United Nations Economic Committee for Europe (UNECE), it may be difficult to establish a practical ban. Instead, they recommended prohibiting certain terms that may mislead end-users into believing a vehicle can lawfully drive itself. Where an end-user is misled in such a way, they may decide to no longer monitor the vehicle, the environment, or the way in which it is driving itself, which could have devastating safety outcomes both for the end-user and other road users. Therefore, we believe that where vehicles are not authorised as self-driving they must not be marketed as such. This prohibition focusses solely on terms that would mislead to such a degree that the vehicles are used unsafely, rather than more general misleading marketing.
252. Clause 78(1) gives the Secretary of State the power to specify terms, symbols or marks that may only be used to describe authorised automated vehicles. The Department proposes to initially specify the terms identified by the Commissions in their final report (self-drive, self-driving, drive itself, driverless, and autonomous vehicle), which have already been subject to consultation.

Justification for taking the power

253. The Department considers that the specific terms which should be restricted is more appropriately dealt with in regulations, rather than the primary legislation. Although the Department knows what terms it proposes to restrict initially, those

terms may change over time. Disreputable developers may coin new terms that are equally misleading but not initially foreseen. If these terms can be used without restriction, then the ability to prevent misleading use of vehicles would be undermined. Giving the Secretary of State the power to make regulations specifying terms means it will be possible to adapt terms over time. Equally, some terms may be shown over time not to cause confusion, and so need not be prohibited.

Justification for the procedure

254. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power. The decision as to which terms, symbols and marks are to be specified is a technical one, and if new misleading terms come to light, the Secretary of State may need to make regulations quickly to avoid significant safety risks for end-users. Any proposed use of the power will be subject to the consultation requirement in clause 97(2)), providing an additional safeguard.

PART 5- PERMITS FOR PASSENGER SERVICES

Clause 88 (5) - Collection, sharing and protection of information

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

255. Clause 82(1) provides appropriate national authorities with the overarching power to grant a permit for automated passenger services. A permit may be granted subject to conditions, which must be specified on the face of the permit (clause 82(4)(d)). Clauses 88(1) and (2) provide that conditions attached to the permits 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 such as vehicle manufacturers and insurers.
256. Clauses 88(3) to (8) establish protections for information obtained further to the kinds of permit conditions contemplated by clauses 88(1) and (2). The delegated power in clause 88(5) gives the Secretary of State power to make regulations

authorising recipients of information obtained further to permit conditions to disclose the information to another person for purposes specified in the regulations (clause 88(5)(a)) or use the information other than for the purpose for which it was obtained (clause 88(5)(b)).

257. Under clause 88(6), it is an offence to disclose information obtained further to a permit condition other than in accordance with regulations under clause 88(5), or another enactment. It is also an offence to use the information for a purpose other than the purpose for which it is obtained, other than in accordance with the regulations or another enactment.

Justification for taking the power

258. In the Department's view, it is appropriate for regulations to set out the precise circumstances in which information obtained further to permits can be used and disclosed, rather than clarifying these circumstances in the primary legislation. The permit scheme is a novel scheme designed to enable experimental passenger services, and it is not yet known precisely how recipients of information gathered under permit conditions may need to share or use this information. The delegated power in clause 88(5) will provide flexibility to identify and change permitted disclosures and uses as the need arises through real-world experience, but subject to the criminal sanction for unauthorised use and disclosure which is set out on the face of the Bill. The approach is also in line with the approach taken in clause 42(3) of the Bill, which similarly includes a delegated power for the Secretary of State to authorise disclosure and use of information collected as part of in-use regulation procedures set out in the Bill.

Justification for the procedure

259. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power. It is also consistent with the procedure applicable to comparable powers in existing legislation. See, for example, sections 23 and 24 of the Economic Crime (Transparency and Enforcement) Act 2022, which similarly allow the Secretary of State to make regulations providing for protected information to be disclosed to certain individuals. The power will be further constrained by the regulation-making process which, under clause 97(2), requires consultation with such representative organisations as the Secretary of State sees fit.

Clauses 89 (1) - Procedural and administrative matters (circumstances for grant, variation, renewal, suspension and withdrawal of permits)

Power conferred on: Appropriate National Authority

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

260. Clause 89(1) will enable the appropriate national authority to make regulations about procedural and administrative matters in connection with permits granted under clause 82(1), in particular the circumstances in which the permit can be varied, renewed, suspended or withdrawn. This follows a similar model for procedural regulations as is being taken for authorisations and operator licensing for self-driving vehicles.

Justification for taking the power

261. Since permits are designed to enable experimental passenger services, the appropriate national authority will require flexibility to adapt the circumstances in which permits can be varied, renewed, suspended or withdrawn in the future as automated technology and services develop. This will ensure that the permit scheme remains up to date with such developments. There may also be a difference of approach in the Devolved Administrations to the procedure for issuing permits. For these reasons, the Department considers that these matters are more appropriately dealt with by the appropriate national authority in secondary legislation rather than in primary.

Justification for the procedure

262. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny, given the procedural nature of the regulations. It is also consistent with the procedure applicable to other powers to provide for procedural and administrative matters in relation to the issue of passenger services licences. See for example section 59 of the Public Passenger Vehicles Act 1981, which allows regulations to provide for procedural matters in relation to public service vehicle operator's licences. The consultation requirement in clause 97(2) will also apply before the appropriate national authority can make regulations, ensuring a degree of stakeholder involvement and transparency in addition to the parliamentary scrutiny.

Clauses 89 (2)- Procedural and administrative matters (procedure for grant, retention, renewal, expiry, variation, suspension, and withdrawal of permits)

Power conferred on: Appropriate National Authority

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

263. Clause 89(2) will enable the appropriate national authority to make regulations about procedural and administrative matters in connection with permits granted under clause 82(1), in particular the procedures for the grant, retention, renewal, expiry, variation, suspension, and withdrawal of permits, including the form and content of applications for permits, fees payable, notification of decisions, reviews of or appeals against decisions. This follows a similar model for procedural regulations as is being taken for authorisations and operator licensing for self-driving vehicles.

Justification for taking the power

264. Since permits are designed to enable experimental passenger services, the appropriate national authority will require flexibility to adapt the procedure for obtaining a permit as automated technology and services develop. This will ensure that the procedure remains up to date with such developments and will allow periodical changes to fees. There may also be a difference of approach in the Devolved Administrations to the procedure for issuing permits. For these reasons, the Department considers that these matters are more appropriately dealt with by the appropriate national authority in secondary legislation rather than in primary.

Justification for the procedure

265. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny, given the procedural nature of the regulations. It is also consistent with the procedure applicable to other powers to provide for procedural and administrative matters in relation to the issue of passenger services licences. See for example section 59 of the Public Passenger Vehicles Act 1981, which allows regulations to provide for procedural matters in relation to public service vehicle operator's licences. The consultation requirement in clause 97(2) will also apply before the appropriate national authority can make

regulations, ensuring a degree of stakeholder involvement and transparency in addition to the parliamentary scrutiny.

Clause 89 (6)- Procedural and administrative matters (maximum validity period for permits)

Power conferred on: Appropriate National Authority

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

266. Any permit granted to a person to provide an automated passenger service in a vehicle resembling a taxi, private hire vehicle, or public service vehicle, will have a maximum validity period, at the end of which the permit ceases to be valid and is subject to renewal. Setting a maximum validity period allows the appropriate national authority to conduct the necessary process to determine whether the permit should be renewed.
267. This delegated power allows the appropriate national authority to set a maximum validity period.

Justification for taking the power

268. Given permits are designed to enable experimental passenger services, it is appropriate for the appropriate national authority to have flexibility to set and adapt maximum validity periods in secondary legislation as automated technology and services develop. Ensuring there is an appropriate maximum period of validity for any permit will support the licensing and enforcement regime for automated passenger services and ensure passenger safety. The permit renewal process will provide the appropriate national authority with the opportunity to check that the permit holder has been complying with safety and accessibility standards which are requirements of operating passenger services under the permit, this will inform the decision as to whether the permit holder remains a suitable person to continue holding a renewed permit for the purposes of providing automated passenger services. There may also be a difference of approach in the Devolved Administrations to the issuing of permits, so it is appropriate to allow flexibility for procedural matters such as the maximum validity period, in the event a different approach is taken.

Justification for the procedure

269. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny, given the procedural nature of the regulations. It is also consistent with the procedure applicable to other powers providing for procedural and administrative matters in relation to the issue of passenger services licences. See, for example, section 59 of the Public Passenger Vehicles Act 1981, which enables regulations to provide for matters of a similarly procedural nature in relation to public service vehicle operator's licences. The consultation requirement in clause 97(2) will also apply in respect of the regulations.

Clause 89 (7)- Procedural and administrative matters (Delegation of functions to traffic commissioners)

Power conferred on: Appropriate National Authority

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

270. The automated passenger services permitting regime will cover a range of compliance and enforcement procedures that mirror the existing procedures and powers that Traffic Commissioners already have for various types of vehicles. Traffic Commissioners will continue to be responsible for the licensing and regulation of those vehicles. This delegated power allows the appropriate national authority to extend Traffic Commissioners' responsibilities to include automated versions of the vehicles that provide passenger services.

Justification for taking the power

271. Traffic Commissioners already regulate those who operate vehicles used for passenger services, including buses and coaches, and have expertise and experience in that field. However, Traffic Commissioners do not yet have experience of regulating automated passenger services. In the Department's view, the appropriate national authorities should have a power to delegate their functions under Part 5 of the Bill to Traffic Commissioners in due course, once there is greater experience of regulating automated passenger services. This

could ensure consistency and efficiency in the regulation of operators of both conventional and automated passenger services.

Justification for the procedure

272. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of the power. It is uncontroversial to delegate the functions in Part 5 to Traffic Commissioners, as these functions are consistent with the powers Traffic Commissioners already exercise under other legislation, including the Public Passenger Vehicles Act 1981 (s 4) and the Goods Vehicles (Licensing of Operators) Act 1995 (s 1). The power to delegate functions to Traffic Commissioners is also procedural in nature and does not affect the substantive content of the functions which may be delegated. The consultation requirement in clause 97(2) will also apply in respect of the regulations.

PART 6- ADAPTATION OF EXISTING REGIMES

Clause 91- Power to update type approval requirements

Power conferred on: Secretary of State

Power exercised by: Regulations made by statutory instrument.

Parliamentary Procedure: Negative procedure.

Context and Purpose

273. This clause grants the Secretary of State a power to make regulations to amend type approval legislation so as to impose new type approval requirements, or alter or remove existing type approval requirements in respect of automated vehicles. There are a number of type approval frameworks in retained EU law, which require substantial amendments to enable the approval of automated vehicles.
274. The frameworks require amending to introduce new definitions and new vehicle categories into vehicle type approval, specifically for automated vehicles. The frameworks need to define the numerous technical subjects that should apply to automated vehicles of differing designs. Whilst many of these technical subjects apply currently to non-automated vehicles, these subjects often assume a vehicle with a driver, driver's controls and driver's seating position, or assume that a human will be performing a specified test procedure. Automated vehicles

challenge these assumptions and each subject needs to be treated, interpreted and amended on a case-by-case basis. It may also be appropriate to update some of these subjects to the latest standards in light of the fact the vehicle is automated. Further, new subjects will need to be introduced which cover the automated technologies on the vehicle, cyber-security, and other areas of the vehicle taking into account the design of the automated vehicle. Some of these subjects will include ongoing obligations to ensure that vehicles continue to remain safe, cyber secure and in compliance with type approval requirements not simply at the point of type approval but once the vehicle is in use. For instance, changes to traffic rules or the emergence of new cyber-security vulnerabilities may require the manufacturer to take action such as issuing software updates. 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 of their 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.

Justification for taking the power

275. Vehicle type approval frameworks require amending in order to accommodate automated vehicles (particularly new vehicle designs such as those which do not have a driver's seating position or driver's controls). These amendments include setting requirements for the automated technologies on the vehicle, some of which will set ongoing obligations to ensure that the vehicles remain safe and cybersecure throughout their lifetime. This power reflects the evolutionary advancements in motor vehicle technology, and is necessary because the powers of the Road Traffic Act are not sufficient to amend existing type approval frameworks to accommodate automated vehicles.
276. Type approval requirements will vary depending upon the technology and vehicle design in question (for example, an automated valet parking feature will differ from an automated lorry designed to drive itself on a motorway) and, given the scale of technological advancements in the automotive industry, the Department considers that setting out detailed provisions on the face of the Bill could create prescriptive requirements that quickly become out of date or are not fit for purpose. Furthermore, frequent amendments to type approval requirements for automated vehicles are anticipated as new vehicle designs and automated features emerge. Finally, approaches for determining the safety of automated vehicles continue to develop and type approval requirements will need updating to reflect best practice and ongoing learning. For these reasons, the Department considers it appropriate for there to be flexibility in setting type approval requirements.

Justification for the procedure

277. The Department considers that the negative procedure is appropriate, by drawing parallels with corresponding type approval powers contained within Part 2 of the Road Traffic Act 1988 which also requires secondary legislation to be passed by negative resolution. Furthermore, as with section 195(2) of the Road Traffic Act 1988, any proposed use of the power will be subject to consultation with such representative organisations as the Secretary of State thinks fit (see clause 97(2)).

Clause 93 (1) – Provision of information about certain measures (requiring information from traffic regulation authorities)

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative Procedure

Context and Purpose

278. The clause gives a regulation making power to the Secretary of State to require traffic regulation authorities to provide information about the Traffic Regulation Orders (TROs) that they make to either the Secretary of State or to a person (or company) operating a digital publication platform on behalf of the Secretary of State. The digital information will then be published and made available for use in autonomous vehicles and by electronic equipment designed to undertake or facilitate the driving of other vehicles on roads.
279. The Secretary of State will, in addition, be able to
- a. specify when the information should be provided and in what format
 - b. require the information to be in line with a data model and standards that will be updated from time-to-time to ensure completeness and consistency of the data
 - c. make different provisions for different types of TROs (permanent, temporary, experimental or for special events)

Justification for taking the power

280. The data model and standards will set out a list of data fields and formats covering all the different types of TROs (which can be made on either a permanent, temporary, or experimental basis, or for special events such as sporting occasions). Some of the mandatory data fields are vital and will be common to all TROs and some will be voluntary.
281. Regulations would specify the details of the mandatory fields that must be provided and the timeliness of when it should be submitted. If we did not specify such a list, the data sent to the publication platform would be incomplete and inconsistent and may not be sent in real-time.
282. We believe it is more appropriate for details of the mandatory data to be listed in regulations rather than on the face of the Bill as the data will evolve as technology advances and may therefore need to be amended from time to time.

Justification for the procedure

283. Other regulations made under the Road Traffic Regulation Act 1984 use the negative procedure so there are precedents.
284. The subject matter being specified in regulations relates to TRO data, for example, a new speed limit, a new bus lane and times of use, or the location of parking bays. It is uncontroversial.
285. It is however technical and likely to change from time to time in line with technological innovation and after consultation with affected stakeholders. Data formats may also change in line with international standards or as the vehicle manufacturers develop their technology.
286. Parliamentary time is therefore saved by use of the negative procedure because amendments and changes are foreseeable.

PART 7- GENERAL PROVISION

Clause 96- Crown application

Power conferred on: Secretary of State

Power exercised by: Regulations made by statutory instrument.

Parliamentary Procedure: Negative procedure

Context and Purpose

287. There are no existing powers that could be used by the Department to make regulations that provide for the provisions relating to the investigation of authorised automated vehicle incidents by statutory inspectors in Part 3 Chapter 2 to bind the Crown (ministers, Crown servants, or individuals in the public service of the Crown) in a manner described in regulations. The investigatory provisions include requesting information, items, or material, as well as entering premises for the purposes of an investigation into an incident involving an automated vehicle.
288. Subsection (3) confers a power for the Secretary of State to make regulations that bind the Crown in a manner described in regulations, specifically in relation to the investigation of incidents by statutory inspectors (Chapter 2 of Part 3).
289. For an inspector to achieve their primary objectives of preventing or reducing harm to individuals in relation to incidents that involve automated vehicles, if deemed necessary, this power would enable an inspector to obtain evidence from Crown bodies. For example, this may include requiring the [Vehicle Certification Agency](#) to provide information regarding vehicles that were once authorised, then had authorisation removed, and the reason why. Furthermore, this could include requiring the [Centre for Connected and Autonomous Vehicles](#) (CCAV) to provide access to information that demonstrates where an automated vehicle has failed to respond to a rule of the road, such as a red traffic light, or to a user command in an unexpected way during the automated vehicle trials.
290. It is also possible that an inspector may need other types of information, items, or materials from other government departments for the purpose of an investigation, such as criminal offence and health data, which could be held by the [Home Office](#), [Department for Health and Social Care](#), and [NHS England](#).
291. The regulation-making powers in this paragraph will limit, prescribe, and specify the circumstances in which these provisions will bind the Crown. For example, these regulations could state define the specifics of what an inspector can request from the Crown, such as the types of information, items, or material. Furthermore, these regulations could make provision for the circumstances in which those in service to the Crown do commit an offence.

Justification for taking the power

292. Safety investigation is a long-standing practice, both in the UK and internationally. In developing the proposed functions and operating procedures of an inspector of incidents, the Department has been guided by international standards

and precedent (International Civil Aviation Organization [Annex 13 principles](#)) that define the investigatory independence, capability and operating procedures of a safety investigation. This includes procedures around the collection, retention and destruction of physical material or evidence.

293. Further to this, these regulation-making powers have broadly been modelled on the existing legislation that governs investigatory bodies of other safety-critical industries in the UK. For example, the recent [Health and Care Act 2022](#), which provides a similar regulatory framework.

294. An inspector may require various types of information, items, material, and forms of assistance, particularly considering that the market of automated vehicles is at an early stage of development. There will be circumstances where an inspector may not have the required experience, expertise, tools, or access to information, to undertake a specific task that is critical to undertaking a fair, transparent, and effective investigation. For example, an inspector may need the support of the [Vehicle Certification Authority](#) or [Driver and Vehicle Standards Agency](#) to access a component of an automated vehicle, such as the solid-state drive, to retrieve vehicle data. It could be the case that these Crown bodies, in place of the original equipment manufacturer, is the only other organisation with the necessary tools to undertake this task. This means that an inspector needs to have the flexibility and power to seek assistance from the Crown, as without this, an investigation could be significantly hindered or prevented from developing safety learning.

295. The Department recognises that an inspector cannot be an expert in every aspect of automated vehicle technology, particularly considering the ever-changing nature and rapid development of the technology and marketplace. This means flexibility is needed to seek assistance from those best placed to help, which could include the Crown. Without this regulation-making power, is a risk that an investigation could be significantly hindered if an inspector cannot access the necessary expertise or tools, which has the risk to obstruct the overall policy intent. As such, the Department wishes to develop the detail of these provisions in line with continued development of automated vehicle technology and through an official consultation with other government departments.

296. To ensure that the content of regulations can be agreed across government, industry, and other sectors, the Department believes it is appropriate that the detailed provision is in secondary legislation. This will allow policy to take into account the views of other government departments, changes in the market, technology, and safety considerations, particularly following the conclusion of the [automated vehicle trials](#). Furthermore, due to the potential differences in report and recommendation crafting for automated vehicle technology that policy may need to consider, the Department intends to further consult on these regulation-making

powers through a consultation, which will enable robust evidence to be collected before defining the regulations in secondary legislation.

Justification for the procedure

297. The Department considers that the negative procedure provides the appropriate degree of parliamentary scrutiny as these regulations only apply to the inspectors of incidents, who are restricted by the primary legislation that prescribes their scope and objectives. This procedure reflects the long-established approach for issuing procedural regulations for safety investigations, including for the [air](#), [marine](#), [rail](#), [spaceflight](#), and [health](#) activities. There is a requirement to hold a public consultation on these regulations prior to laying secondary legislation. Furthermore, the Department wishes to have explicit engagement with other government departments on how Crown Application would affect their provision of information to the inspectors, and to ensure through a formal write-round process, that any concerns can be handled properly relating to how far Crown Immunity is to be disapplied.

Clause 99(1) – Commencement

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: None

Context and Purpose

298. Clause 98 (1) contains a standard power for the Secretary of State to bring provisions of the Bill into force by commencement regulations.

Justification for taking the power

299. Leaving provisions in the Bill to be brought into force by regulations will afford the necessary flexibility to commence the provisions of the Bill at the appropriate time, having regard to the need to make any necessary secondary legislation, issue guidance, undertake appropriate training and put the necessary systems and procedures in place, as the case may be.

Justification for the procedure

300. Consistent with common practice, commencement regulations under this clause are not subject to any parliamentary procedure. Parliament will have approved the principle of the provisions in the Bill by enacting them; commencement by regulation enables the provisions to be brought into force at the appropriate time.

Clause 99 (4) – Transitional or saving provision

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: None

Context and Purpose

301. This is a standard power to make transitional or saving provision in connection with the coming into force of any provision of this Bill.

Justification for taking the power

302. The power to make transitional or saving provision is often needed when bringing legislative provisions into force, for example in transitioning between two legislative regimes.

Justification for the procedure

303. The procedure for this power is consistent with that for commencement regulations.

SCHEDULE 1: Enforcement action under Part 1

Part 2: Civil sanctions

Paragraph 8 (1)- Assignment of functions to traffic commissioners (powers exercisable by traffic commissioners)

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

304. In order to ensure the continued safety of self-driving vehicles, it is essential that appropriate sanctions are in place to ensure those responsible for self-driving vehicles continue to comply with relevant requirements. Part 1, Chapter 5 sets out the civil sanctions that may be brought against an Authorised Self-Driving Entity and/or licensed No-User-in-Charge Operator if they fail to meet the requirements placed on them. The Secretary of State will have access to a range of proposed civil sanctions including compliance notices, redress notices, monetary penalties and cost notices (see clauses 34-37). Criminal sanctions, for the most serious offences, will be put in place and are set out in Part 2 of the Bill.
305. Paragraph 8(1) in Schedule 1 to the Bill gives the Secretary of State the power to delegate the Secretary of State's powers under clauses 34, 35, 36 and Schedule 1 paragraph 6 to Traffic Commissioners. Paragraph 8(1) allows the powers to be exercised by a Traffic Commissioner instead of, or in addition to, the Secretary of State.
306. Traffic Commissioners already regulate those who operate heavy goods vehicles, buses and coaches, and have a range of powers to do so. Traffic Commissioners will continue with their existing responsibilities.
307. The ability to delegate these powers will provide for flexibility in the future in order to best align the existing work of the Traffic Commissioners with future regulation of self-driving vehicles, with a view to ensuring consistency and efficiency across those responsible for the regulation of both conventional and self-driving vehicles.

Justification for taking the power

308. The Traffic Commissioners already regulate those who operate heavy goods vehicles, buses and coaches, and have expertise and experience in that field. However, the Traffic Commissioners do not yet have experience of regulating automated vehicles.
309. As the regulation of self-driving vehicles is a novel field, and both procedures and secondary legislation may need to adapt in coming years to take account of lessons learnt from real-world experience, the Government believes the regulatory powers should rest with the Secretary of State.

310. However, as experience grows and regulatory procedures become more mainstream, it is the Department's view that the Secretary of State should have a power to delegate to Traffic Commissioners the specified powers in relation to civil sanctions in order to ensure consistency and efficiency in the regulation of operators of both conventional and automated vehicles.

Justification for the procedure

311. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power. It is uncontroversial to delegate the functions in clauses 34, 35, 36 and Sch 1 para 6 to Traffic Commissioners, as these functions are consistent with the powers Traffic Commissioners already exercise under other operator licensing legislation, including the Public Passenger Vehicles Act 1981 (s 4) and the Goods Vehicles (Licensing of Operators) Act 1995 (s 1). The power to delegate functions to Traffic Commissioners is also procedural in nature and does not affect the substantive content of the functions which may be delegated. The consultation requirement in clause 96(2) will also apply in respect of the regulations.

Paragraph 8 (3)- Assignment of functions to traffic commissioners (procedure for review by traffic commissioners)

Power conferred on: Secretary of State

Power exercised by: Statutory instrument

Parliamentary Procedure: Negative procedure

Context and Purpose

312. In order to ensure the continued safety of self-driving vehicles, it is essential that appropriate sanctions are in place to ensure those responsible for self-driving vehicles continue to comply with requirements. Part 1, Chapter 5 sets out the civil sanctions that may be brought against an Authorised Self-Driving Entity and/or licensed No-User-in-Charge Operator if they fail to meet the requirements placed on them. The sanctions include compliance notices, redress notices, monetary penalties and cost notices. Criminal sanctions, for the most serious offences are set out in Part 2 of the Bill.

313. Traffic Commissioners already regulate those who operate heavy goods vehicles, buses and coaches, and have a range of powers to do so. Traffic Commissioners will continue with their existing responsibilities.
314. Paragraph 8(3) of Schedule 1 gives the Secretary of State the power to set out a procedure by which a person who has been issued a compliance notice, redress notice or monetary penalty notice by the Secretary of State may apply to a Traffic Commissioner to review the notice. This review process would precede, and would not replace, the appeals process set out in Paragraph 7 of Schedule 1, in which appeals may be made to the Tribunal.
315. The provision of a review procedure by a Traffic Commissioner will provide a route for an Authorised Self-Driving Entity or No-User-In-Charge operator to obtain an informed second opinion on any notice issued by the Secretary of State, which should minimise potentially lengthy and expensive appeals to the Tribunal.

Justification for taking the power

316. The Traffic Commissioners already regulate those who operate heavy goods vehicles, buses and coaches, and have expertise and experience in that field. However, the Traffic Commissioners do not yet have experience of regulating automated vehicles. It is the Department's view that the Secretary of State should have a power to set out a review procedure by Traffic Commissioners, in due course once there is greater experience of regulating automated vehicles. This could enable efficiencies for both industry and government and align with the role of Traffic Commissioners in the regulation of conventional vehicles.

Justification for the procedure

317. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power. It is uncontroversial to provide for Traffic Commissioners to review the issue of notices by the Secretary of State, as this function is consistent with the review functions Traffic Commissioners already exercise under other operator licensing legislation, including the Public Passenger Vehicles Act 1981 (s 49A) and the Goods Vehicles (Licensing of Operators) Act 1995 (s 36). The consultation requirement in clause 96(2) will also apply in respect of the regulations.

SCHEDULE 6- CIVIL SANCTIONS FOR INFRINGING PASSENGER PERMIT SCHEME

Schedule 6, Paragraph 2 (7): Monetary penalties

Power conferred on: Appropriate National Authority

Power exercised by: Secondary Legislation

Parliamentary Procedure: Negative Procedure

Context and Purpose

318. Schedule 6 sets out the civil enforcement measures for breach of automated passenger services permit conditions, and the issuing of notices and monetary penalties is a core component of the enforcement regime. A permit holder will need to meet permit conditions and comply with compliance notices issued by the appropriate national authority. If the permit holder fails to comply with permit conditions or comply with a compliance notices, the appropriate national authority may issue a monetary penalty notice, requiring the regulated body to pay a sum outlined in the notice.
319. The delegated power in paragraph 2(7) of the Schedule requires the appropriate national authority to set the maximum sum and amount that will be issued in monetary penalty notices. The regulations may determine the maximum sum or amount by reference to turnover of the permit holder or other entities connected with the permit holder. The regulations may make provision about what counts toward “turnover” and how turnover is to be calculated or assessed.

Justification for taking the power

320. The appropriate national authority requires the ability to issue monetary notices in the event a regulated body does not comply with permit conditions or compliance notices. Monetary notices will be a key part of ensuring that notices are complied with and ensure that the enforcement regime for automated passenger services is robust and adhered to.
321. Appropriate national authorities may need to respond to development in the sector and the technology that supports automated vehicles used for passenger services, and as a result, all enforcement measures will need to reflect the market environment that permit holders are operating in.

Justification for the procedure

322. The Department considers that the negative resolution procedure gives Parliament the appropriate level of scrutiny over the use of this power. It is also consistent with the procedure applicable to powers in other legislation to set the maximum sum or amounts for monetary penalties. See for example section 40A(3) and 71 of the Competition Act 1998 and sections 111(4) and (6) and 124(5) of the Enterprise Act 2002.

Annex A- Summary of Delegated Powers

No	Clause/ Schedule	Power Conferred	Power Exercised by	Parliamentary Procedure
1	Clause 2(1)	A requirement on the Secretary of State to publish a 'Statement of Safety Principles'	Statutory guidance	Negative procedure, laid for 40 days before Parliament (similar to the Highway Code)
2	Clause 5(1)	A delegated power to allow the Secretary of State to establish 'authorisation requirements' through regulations	Statutory instrument	Negative procedure
3	Clause 11 (1)	A delegated power to allow the Secretary of State to make regulations about the procedure for granting an authorisation, as well as for varying, suspending or withdrawing an authorisation	Statutory instrument	Negative procedure
4	Clause 12 (1)	A delegated power to allow the Secretary of State to establish an operator licensing scheme, and further provision about operator licensing	Statutory instrument	Negative procedure
5	Clause 31 (5)	A delegated power to allow the Secretary of State to set out in regulations how to deal with items that have been seized	Statutory instrument	Negative procedure
6	Clause 36 (9)	A delegated power to give Secretary of State the ability to issue monetary penalty notices	Statutory instrument	Negative procedure
7	Clause 40	A delegated power to allow the Secretary of State to make regulations requiring a chief officer of police or local	Statutory instrument	Negative procedure

		highway and traffic authorities to report relevant incidents that occur within their area of authority		
8	Clause 42(3)	A delegated power to allow the Secretary of State to make regulations authorising the recipient of information protected by clause 42 to disclose or use the information for specified purposes	Statutory instrument	Negative procedure
9	Clause 50 (1)	Power for the Secretary of State to make regulations to change or clarify whether or how an offence applies to a user-in-charge [this is a Henry VIII power]	Statutory instrument	Affirmative procedure (if the power is exercised to amend any primary legislation, otherwise negative procedure)
10	Clause 58 (4)	A delegated power to allow the Secretary of State to set out in regulation what should happen after a vehicle has been seized and detained	Statutory instrument	Negative procedure
11	Clause 60 (3)	A delegated power to allow the Secretary of State to make regulations about how the functions of an inspector of incidents are to be exercised	Statutory instrument	Negative procedure
12	Clause 63 (2)	A delegated power to allow the Secretary of State to make regulations authorising an inspector to require a person to provide other forms of assistance for the purposes of an investigation	Statutory instrument	Negative procedure
13	Clause 67 (3)	A delegated power to allow the Secretary of State to make regulations to specify circumstances in which the requirements apply to police officers	Statutory instrument	Negative procedure
14	Clause 68 (3)	A delegated power to allow the Secretary of State to make further provision about reports	Statutory instrument	Negative procedure
15	Clause 69	A delegated power to allow the Secretary of State to make regulations to appoint additional persons to exercise investigatory powers	Statutory instrument	Negative procedure

16	Clause 70	A delegated power to allow the Secretary of State to make regulations requiring a person to provide to an inspector, or allow an inspector access to, information, items or material other than in response to a request	Statutory instrument	Negative procedure
17	Clause 71 (1)	A delegated power to require a chief officer of police to report to an inspector of incidents	Statutory instrument	Negative procedure
18	Clause 72 (2)	A delegated power to allow the Secretary of State to make regulations limiting the manner in which any such power may be exercised	Statutory instrument	Negative procedure
19	Clause 73 (2)	A delegated power to allow Secretary of State to make regulations to authorise the inspector to disclose information and make other provision about how the information is to be dealt with	Statutory instrument	Negative procedure
20	Clause 74	A delegated power to allow the Secretary of State to make regulations about how items or material obtained by an inspector in connection with the inspector's functions are to be dealt with	Statutory instrument	Negative procedure
21	Clause 75	A delegated powers to allow the Secretary of State to make regulations entitling (a) the Secretary of State to recover from any other person and (b) any other person (including an inspector) to recover from the Secretary of State expenses, costs or losses	Statutory instrument	Negative procedure
22	Clause 78(1)	A delegated power for the Secretary of State to specify words, expressions, symbols or marks that may only be used to describe authorised automated vehicles	Statutory instrument	Negative procedure
23	Clause 88(5)	A delegated power to allow the Secretary of State to make regulations authorising the recipient of information obtained further to permit conditions for the sharing of information to disclose or use the information for specified purposes	Statutory instrument	Negative procedure

24	Clause 89 (1)	A delegated power to allow the appropriate national authorities to make regulations about the circumstances in which a permit for automated passenger services can be varied, renewed, suspended or withdrawn	Statutory instrument	Negative procedure
25	Clause 89(2)	A delegated power to allow the appropriate national authorities to make regulations about the procedure to be followed in connection with the grant, retention, renewal, expiry, variation, suspension or withdrawal of automated passenger services permits	Statutory instrument	Negative procedure
26	Clause 89 (6)	A delegated power to allow the appropriate national authorities to set a maximum validity period for permits	Statutory instrument	Negative procedure
27	Clause 89 (7)	A delegated power to allow the appropriate national authorities to extend Traffic Commissioners' responsibilities to include automated vehicles of the vehicles that provide passenger services	Statutory instrument	Negative procedure
28	Clause 91 (1)	A delegated power to allow the Secretary of State to make regulations to amend type approval legislation so as to impose new type approval requirements, or alter or remove existing type approval requirements in respect of automated vehicles	Regulations	Negative procedure
29	Clause 93 (1)	A delegated power to allow the Secretary of State to require traffic regulation authorities to provide information about the Traffic Regulation Orders (TROs) that they make to either the Secretary of State or to a person (or company) operating a digital publication platform on behalf of the Secretary of State	Regulations	Negative procedure
30	Clause 96	A power for the Secretary of State to make regulations that bind the Crown in a manner described in regulations, specifically in relation to the investigation of incidents by statutory inspectors	Regulations	Negative procedure
31	Clause 99 (1)	A delegated power to allow the Secretary of State to bring the Bill into force by statutory instrument	Regulations	None
32	Clause 99 (4)	A power for the Secretary of State to make transitional or saving provision in connection with the coming into force of any provision of the Bill	Regulations	None

33	Schedule 1 Para 8 (1)	A delegated power to allow the Secretary of State to delegated to Traffic Commissions the specified powers in relation to civil sanctions	Statutory instrument	Negative procedure
34	Schedule 1 Para 8 (3)	A delegated power to allow Secretary of State to set out a procedure by which a person who has been issued a compliance notice, redress notice or monetary penalty notice by the Secretary of State may apply to a Traffic Commissioner to review the notice.	Statutory instrument	Negative procedure
35	Schedule 6 Para 2 (7)	A delegated power to require the appropriate national authority to set the maximum sum and amount that will be issues in monetary penalty notices	Statutory instrument	Negative procedure