

AUTOMATED VEHICLES BILL

Supplementary Memorandum concerning the Delegated Powers in the Bill for 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 Bill (“the Bill”) and is supplemental to the memorandum shared with the Committee on 9 November 2023.
2. 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.
3. This memorandum covers an amendment to existing delegated powers made by Government amendment, tabled on 30 January 2024, for consideration at Report stage in the Lords.

B. AMENDMENTS TO EXISTING DELEGATED POWERS

Amendments to Clause 2 (2) and (5) - (8): Statement of Safety Principles [amends the requirements framing the Safety Principles, and the laying procedure]

Power conferred on: Secretary of State

Power exercised by: Statutory guidance (Statement of Safety Principles “the statement”)

Parliamentary procedure: *Amended to: For the first statement, a process similar to the draft affirmative procedure. The statement must be approved by both Houses before this comes into force. For any revision of replacement of the statement, the procedure is similar to the negative procedure. The statement takes effect after sitting 40 days unless either House resolves before then that the statement should not take effect (similar to procedure for amending the Highway Code).*

Amendment to 2(2): Context, purpose and justification:

4. The amendment concerns the requirements for formulating the safety principles. These must be framed with a view to securing that:
 - a. authorised automated vehicles achieve a level of safety equivalent to, or higher than, that of careful and competent human drivers and
 - b. road safety in Great Britain will be better as a result of the use of authorised automated vehicles on roads than it otherwise would be.
5. The amendment added the detail at (a) above, was brought forward following debates in the House of Lords around the safety standard for authorised automated vehicles.
6. The amendment aims to put the Government’s stated safety ambition for self-driving vehicles onto a statutory footing: that self-driving vehicles are expected to achieve and equivalent level of safety to that of a competent and careful human driver.
7. The procedure for the statement is set out in the paragraphs below.

Amendment Clause 2 (5)-(8): Context and Purpose

8. This amendment imposes, for the first version of the statement, that a positive requirement for both Houses to approve the proposed statement, similar to the draft affirmative procedure. Any subsequent revision will come into force after being laid with both Houses for 40 sitting days, unless either House resolves before then that the statement should not take effect, similar to the negative resolution procedure.
9. This amendment has been made in response to concerns raised at Committee about the use of procedure similar to the negative resolution procedure in scrutinising the statement. As the principles contained in the statement are novel it is accepted it is appropriate to use the affirmative procedure for the first iteration, to give Parliament sufficient opportunity to scrutinise the first version of this, and to revert to a negative resolution procedure for subsequent revisions.

Justification for taking the power

10. The justification for the power can be found in the [Delegated Powers Memorandum](#) for the Automated Vehicles Bill from paragraph 23.¹

Justification for the procedure

11. The amendment to a procedure that is similar to the draft affirmative procedure, for the initial statement, ensures a higher level of Parliamentary scrutiny. This is appropriate given the novel nature of the principles. It will ensure that Parliament has an increased level of scrutiny and can debate the proposed statement before it becomes Statutory Guidance. The Department considers that for subsequent revisions of the statement, 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.

Amendment to 97(5) Monetary penalties [amends the procedure]

Power conferred on: Secretary of State

Power exercised by: Statutory Instrument

Parliamentary Procedure: Affirmative procedure

Context and Purpose

12. An amendment has been tabled for the draft affirmative procedure to apply to regulations made under section 36(9) and paragraph 2(7) of Schedule 6, both being powers to set the maximum sum that may be specified for monetary penalties for regulated bodies.
13. This amendment has been made in response to the Delegated Committee's specific concern that it is inappropriate to leave the setting of maximum amounts payable by way of civil penalties in Clause 36 and paragraph 2(7) Schedule 6 entirely to negative procedure regulations, which they do not consider provides the sufficient level of scrutiny for use of the powers.

Justification for taking the power

¹ <https://bills.parliament.uk/publications/52932/documents/3992>

14. The justification for the powers setting monetary penalties, is found in the [Delegated Powers Memorandum](#) for the Automated Vehicles Bill from paragraphs 78 and 318.²

Justification for the procedure

15. The amendment ensures that regulations would be made under the affirmative resolution procedure. This will ensure Parliament has sufficient opportunity to debate the appropriate level of penalties set for regulated bodies.

Department for Transport
January 2024

² <https://bills.parliament.uk/publications/52932/documents/3992>