

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION
WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND
NORTHERN IRELAND PROTOCOL**

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1426 of 5.8.2022 laying down rules for the application of Regulation (EU) 2019/2144 of the European Parliament and of the Council as regards uniform procedures and technical specifications for the type-approval of the automated driving system (ADS) of fully automated vehicles

ANNEXES to the Commission Implementing Regulation laying down rules for the application of Regulation (EU) 2019/2144 of the European Parliament and of the Council as regards uniform procedures and technical specifications for the type-approval of the automated driving system (ADS) of fully automated vehicles

Submitted by Department for Transport

29 September 2022

SUBJECT MATTER

1. This Explanatory Memorandum sets out the implications to Northern Ireland of an EU implementing regulation 2022/1426 which supplements the existing 'General Safety Regulation' (EU) 2019/2144. The General Safety Regulation (GSR) sets type-approval requirements for road vehicles, specifically those to do with the general safety of vehicles, their occupants and vulnerable road users.
2. In summary, the implementing regulation sets the detailed technical specifications and administrative requirements for the testing and approval of fully automated vehicles, including:
 - The information to be provided when applying for an approval,
 - The performance requirements for the system in different traffic scenarios,
 - The assessment criteria for the manufacturer's safety concept for the vehicle and their safety management system,
 - The requirements for testing the system's compliance with the performance requirements, including a minimum set of traffic scenarios,

- The provisions relating to in-service reporting by the manufacturer concerning critical and non-critical safety incidents.
3. Article One sets the scope of its application. The Regulation applies to fully automated passenger and goods vehicles in certain specific uses, these are those designed and constructed for use in predefined areas, routes with fixed start and end points, and in predefined parking facilities for automated valet parking. In addition, vehicles defined in the type approval framework Regulation (EU) 2018/858 Article 2(3), for example vehicles designed for use principally on construction sites, ports/airports or for police/fire services, can be approved as fully automated.
 4. Article Two sets the definitions of the features and functions of the automated driving system and associated concepts used in the technical performance and testing requirements.
 5. Article Three sets the administrative and technical requirements for type approval of the automated driving system, with the annexes to this regulation providing the detailed requirements. Annex I sets out the information to be provided with an application for approval, such as the manufacturer's details. Annex II sets the technical specifications for the system's performance, such as how it should behave in certain scenarios, and Annex III provides the detailed testing requirements for the approval authority to verify the system's performance before granting an approval, along with the safety assurance processes of the manufacturer that need to be audited and followed. Annex III also includes requirements for in-service reporting of critical and non-critical 'occurrences' to the approval authorities. Finally, Annex IV defines the format of the type approval certificate for an automated driving system.

SCRUTINY HISTORY

6. The proposal that resulted in Regulation (EU) 2018/858 was the subject of Explanatory Memorandum 5712/16 dated 25/2/2016. The Commons European Scrutiny Committee reported on four occasions that the proposal raised issues of political importance, completing scrutiny on 13 December 2017 (Report 5, Session 17/19, 37497). The proposal was sifted for examination by the Lords European Union Committee's Internal Market sub-committee (sift 1613) and completed scrutiny on 27 April 2017.
7. The proposal that resulted in Regulation (EU) 2019/2144 was the subject of EM 9006/18. EM 9006/18 was considered by the House of Commons European Scrutiny Committee on 17 October 2018. The Committee recommended that the document was politically important and requested further information (Report 40, Session 2017-19, 39712). The House of Lords

European Union Committee referred the EM to sub-Committee at the 1699th sift on 3 July 2019. Ministerial letters were sent to the Committees on 12 March 2019, 2 May 2019, 16 September 2019 and 21 October 2019. The proposal was cleared from scrutiny by the Lords Committee on 16 January 2020.

MINISTERIAL RESPONSIBILITY

8. The Secretary of State for Transport.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

9. The topic of type approval is a reserved matter. The Devolved Administrations, particularly in Northern Ireland, have an interest and have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

- i. Legal Base

Article 4(6) of Regulation (EU) 2019/2144

- ii. Voting Procedure

The Commission was assisted by the Technical Committee - Motor Vehicles in accordance with the rules for the committee procedure set out in Article 13 of Regulation (EU) 2019/2144 and the examination procedure in Article 5 of Regulation (EU) 182/2011. The Committee voted in favour of the act at its 96th meeting on 5th July 2022

- iii. Timetable for adoption and implementation

The proposal was adopted and published on 5th August 2022; it was published in the Official Journal of the European Union on 26th August 2022 and came into effect on 15th September 2022.

POLICY IMPLICATIONS

10. The performance and testing requirements introduced by this Regulation for approval of fully automated vehicles may introduce technical divergence between Great Britain and Northern Ireland, however the Government does not expect there to be any practical impact on producers in NI for the reasons set out below.
11. The scope of application of the Implementing Regulation is restricted to vehicles used in specific uses, and produced in a small series. Annual production volumes per vehicle type for the small series scheme can be no more than 1,500 per year across the EU. [OBJ:OBJ] and so the Regulation is not

expected to cover mass produced vehicles for general use in everyday driving. Moreover, the Government does not expect significant numbers of such vehicles to be sold in Northern Ireland given that they must be right hand drive, used for specific purposes and that the Northern Ireland market is approximately 0.5% of the combined EU and UK market for new car registrations.

12. Whilst there is currently no equivalent regulation for the rest of the UK, the Department for Transport is in the process of producing a safety assurance and legal framework for self-driving vehicles (i.e. fully automated vehicles) in Great Britain. The approach taken by the European Commission when developing the implementing Regulation is the same as the planned GB equivalent, which will take into consideration guidelines being developed at an international level by the Working Party on Automated and Connected Vehicle (GRVA) under the United Nations Economic Commission for Europe (UNECE) (of which the UK is a contributor). Therefore, the general concepts and a considerable number of requirements are likely to be similar or compatible. Any technical divergence is likely to result from areas which GRVA have not addressed, or if there are provisions required to account for nuances for deployment in Great Britain.
13. Northern Ireland Executive officials continue to be informed about the development of the assurance framework for self-driving vehicles in Great Britain.
14. We are not aware of NI based manufacturers that produce vehicles in scope of the implementing act so do not expect there to be an impact on producers in NI. In addition, any vehicles approved under the EU scheme could also be registered in Great Britain under the Government's provisional approval scheme established at the end of the Transition Period with the EU, as a result such vehicles could be sold and used in both Great Britain and Northern Ireland.
15. There is no impact on Northern Ireland's participation in the UK's free trade agreements as the automotive elements of such agreements are based on the recognition of international UN Regulations where available. The recognition of approvals to UN Regulations is not affected by this implementing act, as the UK is signatory to the same UN Regulations as the EU. As a result, manufacturers in NI producing products to UN Regulations will be unaffected.
16. There have been no discussions between the Government and the EU about this implementing regulation, but the Government was aware that one would be required to set the technical requirements for such systems.
17. It should also be noted that the Government intends to address the issues being faced by businesses when engaging with the Northern Ireland market through the introduction of legislation. The NI Protocol Bill will restore the balance inherent in the objectives of the Northern Ireland Protocol; protecting the integrity of the UK, avoiding a hard border and safeguarding the EU Single

Market. Under the proposed dual regulatory regime in the Bill, vehicles approved under the GB type approval scheme could also be placed on the market in Northern Ireland.

18. Previously, EM 8830/22 provided details of the consultation on a proposed type-approval scheme for Great Britain. The consultation closed on 29th June and responses have been reviewed. The official response to the consultation setting out the final proposals for the scheme was published on the 1st September and can be found at <https://www.gov.uk/government/consultations/vehicle-type-approval-establishing-a-gb-road-vehicle-approval-scheme>. The scheme is expected to be in place by 1st January 2023.

CONSULTATION

19. The motor vehicle manufacturing industry was consulted by the Commission during the development of this proposal, no impact assessment was prepared.
20. The Devolved Administrations were consulted in the preparation of this EM and no concerns were raised.

FINANCIAL IMPLICATIONS

21. There are no financial implications for the UK.

A handwritten signature in black ink that reads "Lucy Frazer". The signature is written in a cursive, flowing style.

Rt Hon Lucy Frazer KC MP
Minister of State
Department for Transport