

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION/DOCUMENTS
WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR
FRAMEWORK**

C(2023) 4523 final

C(2023) 4523 final ANNEXES 1 to 2

COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2023 supplementing Regulation (EU) 2019/2144 of the European Parliament and of the Council by laying down detailed rules concerning the specific test procedures and technical requirements for the type-approval of certain motor vehicles with regard to their advanced driver distraction warning systems and amending that Regulation

ANNEXES to the Commission Delegated Regulation (EU) 2023/... of ... supplementing Regulation (EU) 2019/2144 of the European Parliament and of the Council by laying down detailed rules concerning the specific test procedures and technical requirements for the type-approval of certain motor vehicles with regard to their advanced driver distraction warning systems and amending that Regulation

Submitted by the Department for Transport

22nd September 2023

SUBJECT MATTER

1. This Explanatory Memorandum sets out the implications to Northern Ireland of an EU Commission Delegated Regulation which supplements Regulation (EU) 2019/2144, known as the 'General Safety Regulation' (GSR). The 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. One of the technologies mandated by the GSR is known as advanced driver distraction warning systems (ADDW). These systems track the driver's vision and alert the driver if they are deemed to have become distracted. This is ascertained from the driver's gaze being focused outside the areas typically associated with driving for a certain period of time.
3. The delegated regulation sets the detailed technical specifications and administrative requirements for the testing and type-approval of ADDWs, and the date from which it will come into force and can be applied.
4. Article 1 sets the scope of application. It will apply to all mass-produced passenger and commercial road vehicles (M and N categories under the EU type-approval framework Regulation (EU) 2018/858).

5. Article 2 sets the technical requirements for the operation of ADDWs, which are set out in Part 1 of Annex I of the Regulation. The ADDW system will be automatically activated above speeds of 20km/h, though it may be deactivated by the driver manually or automatically by other driver assistance or automated driving systems. The Regulation divides the driver's field of vision into three areas. The first is the area beyond which the system is expected to function, which is the roof and behind the driver's typical forward plane of vision (Area 1). The second is the area where the driver is expected to be looking and so includes the windscreen and door windows, as well as the area just above and below them (Area 2). The final one, Area 3, is defined as any remaining area covered by a downward plane from 30 degrees below the driver's horizontal eye line. Area 3 is the area that will trigger warnings and is intended to be the area in which a driver would be looking at something distracting, such as a handheld mobile phone. Warnings will be triggered if the driver's gaze exceeds 3.5 seconds in that area when travelling above 50km/h, or after a period of more than 6 seconds if travelling slower. The warning shall be visual and either haptic or acoustic as well. Specifications are given for the intensity and frequency of any acoustic signal and any haptic signal is expected to attract the attention of the driver back to driving.
6. Article 3 sets the detailed test procedures for the validation of ADDWs, which are set out in Part 2 of Annex I.
7. Article 4 amends Annex II of the GSR by updating the table of mandated technologies and their dates of application to include the reference to this Delegated Regulation. Approval to this Delegated Regulation will be required for all new types from 7th July 2024 and all vehicles from 7th July 2026.
8. Article 5 concerns the regulation's entry into force and application. It will apply from 7th July 2024, though manufacturers will be able to obtain approvals from 1st January 2024.

SCRUTINY HISTORY

9. 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 17th 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 3rd July 2019. Ministerial letters were sent to the Committees on 12th March 2019, 2nd May 2019, 16th September 2019 and 21st October 2019. The proposal was cleared from scrutiny by the Lords Committee on 16th January 2020. Since our exit from the EU the Government has also submitted several EMs on Commission tertiary acts that have supplemented Regulation

2019/2144 (see EMs C(22)5402, 10309/21, Unnumbered EM on Commission Implementing Regulation 2021/646, 8164/21 & 7997/21).

MINISTERIAL RESPONSIBILITY

10. The Secretary of State for Transport.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

11. The topic of type approval is a reserved matter. The Devolved Governments, particularly in Northern Ireland, have an interest and have been consulted in the preparation of this EM. No comments were received from them.

LEGAL AND PROCEDURAL ISSUES

i. Legal Base:

Articles 4 (6) and 6 (6) of Regulation (EU) 2019/2144.

ii. Voting Procedure:

According to Article 12 (6) of Regulation (EU) 2019/2144, following notification by the Commission the Council of Ministers and Parliament have two months in which to veto the legislation, through qualified majority in the Council of Ministers or majority of the European Parliament. The period can be extended by up to two months at the direction of either body. No objections were raised by the Council or Parliament.

iii. Timetable for adoption and implementation:

The proposal was adopted on 13th July 2023, it will enter into force 20 days after it is published in the Official Journal of the EU and apply from 7th July 2024.

POLICY AND LEGAL IMPLICATIONS

12. The permeation of technology and other items within a vehicle has increased the potential for the driver to become distracted and consequently the risk of a collision. The use of hand-held mobile phones is a prime example of this. The warnings prescribed by the ADDW system should help to deter this sort of behaviour and encourage the driver to pay attention to the road. However, its overall impact is difficult to establish given the subjective nature of driver distraction and its relationship with road traffic collisions.

13. The Delegated Regulation supplements an existing EU Regulation applicable under the Windsor Framework and provides detailed technical requirements for the testing and operation of a system mandated by that EU Regulation.

14. When the Regulation comes into effect in the EU there will be technical divergence in the mandatory standards applicable in Great Britain and Northern Ireland, but there is unlikely to be real world divergence in the

specification of vehicles available in Great Britain and Northern Ireland due to several factors. ADDW systems will not be prohibited from being fitted to vehicles made for the GB market and manufacturers will generally want to avoid unnecessary costs involved in making separate models for each market. Therefore, they can continue producing a single specification vehicle with ADDWs for both markets. In addition, driver monitoring systems contribute to a vehicle's EuroNCAP score and this will add a further incentive to fit them to vehicles made for the GB market.

15. Officials are not aware of any major manufacturers based in Northern Ireland that would be in scope of the Regulation. NI vehicle manufacture involves mainly the production of large trailers, bus bodybuilding and the conversion of mass-produced cars and vans into wheelchair accessible vehicles or motor caravans. ADDW is not required on trailers and will be installed by the original manufacturer of the base vehicles used by bus bodybuilders and other converters.
16. The requirement to fit ADDWs does not apply to smaller manufacturers producing limited quantities of vehicles under the small series schemes and other vehicles such as motorcaravans, ambulances, hearses, and wheelchair accessible vehicles. Officials expect small manufacturers in Northern Ireland, such as Wrightbus, to be unaffected as they are eligible for approval under the small series scheme. The local manufacturing industry will therefore be unaffected by this proposal. The UK Internal Market Act's provisions on Northern Ireland's unfettered access would enable access to the GB market for NI based manufacturers.
17. The Government is currently undertaking external research into the technologies mandated by the GSR, including ADDWs, to determine their potential road safety benefits for drivers in Great Britain and their suitability for inclusion in the GB type-approval scheme for road vehicles. This research is expected to conclude in autumn 2023. Once it is complete officials will assess which, if any, GSR related systems should be included in the GB scheme. Any legislative proposals to amend the scheme will be accompanied by a formal cost-benefit analysis and consultation with stakeholders.
18. There is no effect on NI'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.
19. There is no effect on NI's participation in the UK's Common Frameworks.
20. The Delegated Regulation will apply directly in Northern Ireland, no further legislation is required.

21. There have been no discussions to date with the EU on this amending regulation within the dialogue structures established under the Withdrawal Agreement, but officials are aware of ongoing EU discussions to develop the technical requirements for ADDWs and other GSR related technologies.
22. There are no legal implications arising from this Delegated Regulation.

CONSULTATION

23. No consultations or impact assessments have been undertaken by the Government for this Regulation. The motor vehicle manufacturing industry were consulted by the Commission during the development of these measures. The Commission prepared impact assessments for the regulations these proposals will amend, but it has not prepared impact assessments for this proposal.

FINANCIAL IMPLICATIONS

24. There are no financial implications for the UK.

A handwritten signature in blue ink, appearing to read 'R Holden', with a long, sweeping underline stroke extending to the right.

Richard Holden MP
Parliamentary Under Secretary of State
Department for Transport