

EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) 2018

2018 No. 592

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument, the Road Vehicles (Construction and Use) (Amendment) Regulations 2018, amends regulation 110 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) (“the C and U Regulations”). Regulation 110 prohibits a person from using a hand-held mobile telephone or hand-held interactive communication device while driving a motor vehicle.
- 2.2 This instrument provides that a person is not in contravention of regulation 110 when the mobile telephone or other hand-held device is being used to perform a remote control parking manoeuvre by creating a new exemption to the offence.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 This instrument inserts an additional paragraph (5A) to regulation 110. Regulation 110 prohibits the use, while driving, of a hand-held mobile telephone or other hand-held interactive communication device. This instrument exempts a person from being in contravention of regulation 110 when the mobile telephone or other hand-held device is being used to perform a remote control parking manoeuvre.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 An initial public consultation ran in autumn 2016, with the response published in January 2017 and titled '*Pathway to driverless cars: Consultation on proposals to support Advanced Driver Assistance Systems and Automated Vehicles*'. As noted in the report, the Department is pursuing a programme of regulatory reform to help facilitate the introduction of innovative new technologies in a safe, agile and evidence-based manner for the benefit of UK consumers and businesses.
- 7.2 The Department has been working closely with industry to identify new advanced driver assistance systems ("ADAS"), such as remote control parking, so that regulation is keeping pace, where possible, to ensure road-users and businesses can take advantage of safe and innovative vehicle systems.
- 7.3 Regulation 2(2)(b) (i), (ii) and (iii) of this instrument set out the features that a remote control parking function must have for it to be used in compliance with the C and U Regulations. These are that the mobile telephone or other device will only enable to vehicle to move if the mobile telephone or other device is 6 metres or less from the motor vehicle, the signal between the mobile telephone or other device and the motor vehicle is maintained and when the function on the mobile telephone or other device is continuously activated by the driver. These features reflect some of the requirements found in the United Nations Regulation No. 79 ("Regulation ECE 79.02"), which came into force on 10th October 2017. Regulation ECE 79.02 updates the international type approval standard for steering equipment, which introduces for the first time, requirements for a remote control parking function.
- 7.4 Regulation ECE 79.02 is made under the Agreement of the United Nations Economic Commission for Europe 1958 (Revision 3) ("UNECE 1958 Agreement").
- 7.5 The UNECE 1958 Agreement entered into force for the United Kingdom on 16th March 1963. A copy of the Command Paper can be found on this website: <http://treaties.fco.gov.uk/docs/pdf/1965/TS0007.pdf>
- 7.6 A copy of regulation ECE 79.02 can be found on this website: <http://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29regs/2017/R079r3e.pdf>
- 7.7 A hard copy of the documents referred to above can be obtained from the Department for Transport upon request, using the contact details at paragraph (13).
- 7.8 The Department also consulted on amendments to the Highway Code rules 149, 150, 160 and 239, to align with the amendment being made by this instrument. The rules will also provide more detailed provisions as to how the remote control parking function should be safely used. It is planned for the amendments to the Highway Code to be made in co-ordination with a wider series of amendments to the Highway Code in spring 2019.
- 7.9 It is not anticipated that the delay between this instrument coming into force and the Highway Code amendments will cause any compliance issues as the standard is clearly set out in regulation 110.

Consolidation

- 7.10 The Department has no current plans to consolidate the C and U Regulations, and does not consider it proportionate to do so now.

8. Consultation outcome

- 8.1 The consultation document '*Pathway to driverless cars: Consultation on proposals to support Advanced Driver Assistance Systems and Automated Vehicles*' was completed in autumn 2016, with results published in January 2017. Electronic copies of these documents can be found online at: <https://www.gov.uk/government/consultations/advanced-driver-assistance-systems-and-automated-vehicle-technologies-supporting-their-use-in-the-uk>. Hard copies can be obtained from the Department for Transport upon request at the contact details provided at paragraph (13).
- 8.2 The Department received 498 responses from a mixture of individuals and organisations, and established that there was significant support for amending regulation 110 to enable the use of the new remote control driving technology.
- 8.3 A more targeted consultation was undertaken from December to January 2018. The document '*Remote Control Parking and Motorway Assist: Proposals for amending Regulations and the Highway Code*' sought views on the draft wording of this instrument, along with proposed changes to Highway Code rules 149, 150, 160 and 239 to reflect the new exemption.
- 8.4 The Department received 1,453 responses to the consultation, with over 72 % confirming support for the proposed amendments to regulation 110 and the Highway Code. A further 4% were in favour of only amending regulation 110 as proposed (and not updating the Highway Code rules).
- 8.5 Some stakeholders suggested textual amendments, each were considered and informed the final draft. Less than 24% advocated no change; the main reason for this was a general distrust or dislike of automated vehicle technology. Several issues concerning different aspects of road safety were raised by both supporters and detractors of the proposed changes; the major recurring themes are addressed in the Government response, and stakeholders directed to ongoing projects dealing with those concerns.
- 8.6 Electronic copies of these documents, including the Government response to the consultation, can be found online at: <https://www.gov.uk/government/consultations/remote-control-parking-and-motorway-assist-proposals-for-amending-regulations-and-the-highway-code>. Hard copies can be obtained from the Department for Transport upon request at the contact details provided at paragraph (13).

9. Guidance

- 9.1 No guidance is required on these Regulations.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies, if any, is not significant.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument. The instrument removes barriers to the use of an ADAS technology by clarifying for the driver and manufacturers how they should be used safely and legally. The amendment allows businesses to take advantage of new vehicle technologies if they make commercial sense, but will not impose any mandatory costs on businesses. By enabling a technology that could reduce the likelihood of minor collisions during parking

manoeuvres, there is the potential that proposals will indirectly benefit businesses for example, through reduced costs of insurance premiums.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses as no significant impact is anticipated.

12. Monitoring & review

- 12.1 The amendment made by this instrument is likely to have no, or no significant impact upon the activities of small businesses, as the instrument does not impose unnecessary burdens and instead enables the use of a new vehicle feature. A review clause is not proposed for this instrument. The Parliamentary Under Secretary of State for Transport, Jesse Norman MP, has made the following statement:

“Having had regard to sections 28 to 32 of the Small Business Enterprise and Employment Act 2015 and the Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that it is not appropriate to make provision for review in this instrument because it would be disproportionate taking into account the economic impact of the amendment made by these Regulations. This is because of the limited size of the economic impact, and because the amendment made by this instrument has the effect of introducing a new exemption to an existing offence.”

13. Contact

- 13.1 Matthew Eglinton at the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR, Telephone: 020 7944 2547 or email: matthew.eglinton@ccav.gov.uk can answer any queries regarding the instrument.