

EXPLANATORY MEMORANDUM TO
THE PUBLIC CHARGE POINT REGULATIONS 2023
2023 No. 1168

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument introduces regulations to improve the experience consumers have when using electric vehicle (EV) public charge points. The instrument will require contactless payment, payment roaming and a standard pricing metric of pence per kilowatt hour. The instrument will also put in place a 99% reliability requirement for rapid public charge points and ensures that charge point operators make data on their charge points available which will assist consumers in locating the right charge points for their needs. These changes are required to boost confidence and ensure a consistent experience. They will also address common challenges currently experienced by consumers across the public charging network including unreliable charge points, a confusing variety of payment metrics making it difficult to compare prices and confusing payment methods.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Minister of State at the Department for Transport, Jesse Norman MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Public Charge Point Regulations 2023 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The regulations made by this instrument have been made using powers under the Automated and Electric Vehicles Act 2018 (“the AEVA”).
6.2 The AEVA is intended to enable EV consumers in the United Kingdom to benefit from improvements in transport technology. Sections 10, 13 and 14 contain provisions to enable the Secretary of State to make regulations to improve the consumer experience at charge points for electric vehicles.

- 6.3 Section 10 of the AEVA provides the Secretary of State with the power to introduce regulations to require charge point operators to provide a particular method of payment and to meet requirements relating to the performance, maintenance and availability of charge points.
- 6.4 Section 13 of the AEVA provides the Secretary of State with the power to introduce regulations to require charge point operators to provide information about charge points, for example, information about the geographical location, live availability and the price offering that are deemed useful to current and future users of the charge point.
- 6.5 Section 14 of the AEVA provides the Secretary of State with the power to make regulations ensuring the ongoing transmission of public charge point data to the Secretary of State, including but not limited to geographic location data and information relating to energy consumption.

7. Policy background

What is being done and why?

- 7.1 The uptake of EVs is central to Government's net zero commitments and EV transition. To enable this transition, the continued accelerated rollout of public charging infrastructure is critical. While most people do and will continue to use private home charging, public charging is critical for those without off-street parking or on long journeys. DfT official statistics produced using data from Zap-Map shows that the provision of public charge points has increased rapidly from 7,211 in 2017 to over 42,250 on 1 May 2023. However, demand for public charging is expected to continue to grow rapidly.
- 7.2 Improvements are being made by industry but not at the pace required to match the uptake of EVs. There are persisting issues that cause difficulties for consumers which undermines confidence and act as barriers to EV adoption. These issues tend to fall into four areas: payment, pricing, data and reliability. These are the areas that require the most improvement to prevent a double standard emerging, where those with driveways can charge reliably and easily at home and those without, struggle to find working charge points that are easy to use.
- 7.3 To resolve these challenges, Government has engaged with industry and worked to support open data and seamless payment. Only a subset of industry has made sufficient changes at the pace required. Government considers it essential to mandate now to accelerate the development of the market and to improve the consumer experience.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.4 The AEVA contains provisions to enable the Secretary of State to make regulations to improve the consumer experience at charge points for electric vehicles. The Alternative Fuels Infrastructure Regulations required specific connector types, location data availability and ad-hoc access. This instrument builds on these areas to improve the consumer experience.

What will it now do?

- 7.5 This instrument will improve the experience of people who use the public charging network, which are predominantly those without off-street parking or who make long journeys. Estimates from the National Travel Survey suggest that 27% of UK drivers do not have access to off-street parking and will be reliant on public charging. Improving reliable and straightforward access to the public charging network for this group is crucial to encouraging the uptake of EVs. It is important to note that EV drivers with driveways will also use the public network on long journeys.
- 7.6 This instrument requires contactless payment for all new public charge points with a power of 8kW and above and existing rapid public charge points with a power of 50kW and above within one year of the regulations coming into force. A recent consumer attitudes study by 'Which' found 84% of those using public charge points wanted contactless payment to be offered. Currently, consumers often need to download lots of apps to charge across different networks. Government is not mandating contactless for the slowest charge points through these Regulations. Charge points slower than 8kW tend to be based in local on-street settings and are usually used habitually by drivers who are familiar with the payment app. There is therefore a lower immediate benefit from the additional cost associated with contactless.
- 7.7 Payment roaming will be required through this instrument within two years of the Regulations coming into force date, to enable drivers to use a single app or Radio Frequency Identification (RFID) card across multiple charge point networks. Charge point operators must ensure that they connect to at least one third party roaming provider. In 2021 the Competitions and Market Authority (CMA) published their Electric Vehicle Charging Market Study which found that 87% of drivers wanted to see payment roaming introduced across public charge points. This is of particular benefit for EV fleet drivers. Fleet managers currently operate separate accounts for each network their drivers use and receive different bills each month. The lack of bill aggregation is often cited as a barrier to the electrification of fleets. To enable industry innovation, charge point operators can choose which third party provider to partner with to offer roaming.
- 7.8 The instrument will also require 99% reliability for each charge point operator's network of rapid charge points, measured as an annual average. A 24/7 free to use staffed telephone helpline must also be offered for all public charge points to support consumers struggling to charge. The 'Which' survey from 2022 also found that half of the drivers surveyed find it difficult to find a charge point in good working condition. Several recent media reports have highlighted the prevalence of this issue for consumers. The instrument relates only to rapid charge points due to the critical nature of their role for long-distance journeys and commercial drivers. Government will review extending this requirement to slower charge points 24 months after the legislation is introduced.
- 7.9 This instrument will open up EV charge point data by requiring that charge point operators make their data publicly available through the Open Charge Point Interface Protocol (OCPI) data requirement. This will open up reference data for example location data and availability data to the public. The CMA study found that 94% of respondents wanted access to real-time data on charge points and said this would make them easier to use. This instrument will require that charge point operators open their reference data, such as location and payment method offered, and charge point

availability data for the public and government bodies. This will enable consumers to access availability data to find out if a charge point is in use and working before they arrive.

- 7.10 This instrument will require charge point operators to use pence per kilowatt hour (p/kWh) as the standard pricing metric for all public charge points, to be displayed either on the charge point or through a separate device. In the same CMA study, over 90% of drivers supported standardised pricing to make it easier to compare prices across different charge point networks. There is currently a wide variety of pricing metrics used including pence per minute, connection fees and set charges per session. This instrument will enable consumers to compare prices and ensure they are getting value for money as a result. This instrument allows for the ongoing use of innovative bundling solutions such as for charging combined with parking, so long as the charging component is displayed in p/kWh.
- 7.11 This instrument will come into force on the 24th November 2023, the 22nd day after the day on which it is made.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 No consolidation is required.

10. Consultation outcome

- 10.1 The Office for Zero Emission Vehicles carried out a UK wide public consultation on the consumer experience of public charge points between 13 February and 10 April 2021. The consultation received over 2000 responses, including over 1800 from individuals. Responses were also received from consumer groups, disability charities, vehicle manufacturers, charge point operators, energy companies, local authorities, e-Mobility Service Providers and Arm's Length Bodies.
- 10.2 All policy proposals had support from a majority of respondents. For payment roaming, there was broad support for government intervention but little consensus over how this should be achieved. Our approach has been to provide industry with sufficient room to innovate, given that the market is still developing, while ensuring an improved consumer experience.
- 10.3 Concerns were expressed over costs to install contactless at lower powered charge points and commercially sensitive data being opened to the public. Government has balanced the cost to industry with the needs of consumers and meeting our net zero targets. The Impact Assessment showed that the cost for mandating retrofitting contactless to charge points slower than 50kW would place too much additional burden on industry. We expect a gradual transition of existing charge points between 8kW and 50kW adopting contactless as charge points are maintained and replaced over time. Therefore, requiring contactless to be retrofitted between 8kW and 50kW will deliver easy universal payment while recognising the early state of the market. Government will not require contactless at slower charge points where the business case is weakest. Concerns have been acknowledged around availability data which will show the utilisation of charge points but Government recognises that consumers need to be able to locate working and available charge points.

- 10.4 Material changes have been made to the original proposals as a result of the consultation:
- 10.5 The Government has decided not to mandate the 99% reliability per individual rapid charge point and instead require this per rapid network. This will avoid imposing an excessive regulatory burden on industry. Most respondents to the consultation advocated for reliability to be measured per rapid network.
- 10.6 The Government raised the threshold for contactless requirements to 8kW from 7.1kW in recognition of supply chain requirements. Government has also extended the date from which new charge points above 8kW must offer contactless from immediately to one year after the regulations come into effect. This is to give industry sufficient time to comply with this provision.
- 10.7 The consultation and the Government's response to this is available at: Consumer Experience at Public Chargepoints - GOV.UK.¹ Hard copies can be obtained from the Department upon request at the contact details provided for in paragraph 15.
- 10.8 Government consulted with devolved administrations throughout the policy development, as this SI applies to the entire United Kingdom.

11. Guidance

- 11.1 Technical guidance has been published to support industry compliance with this instrument. The guidance is available here on gov.uk. Reporting templates will be published before the coming into force date.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is installation of hardware, operating and transaction costs, replacing hardware and installing software. The benefits to business are time savings due to avoided helpline calls and electricity saved by avoided journeys to a second charge point when the first is not working or is in use or could not be located. Government expects these costs will fall mainly on the charge point operators. They will also incur familiarisation costs, which have been monetised in the Impact Assessment. Overall, monetised costs were estimated at £1.120m and monetised benefits at £536m, giving a policy net benefit of -£584m. However, there are thought to be significant non-monetised benefits (resulting from increased EV uptake and the associated GHG savings) which have not been taken into account in this calculation. It has not been possible to identify the degree to which this regulation will increase EV uptake but it is estimated that an increase in EV sales of just 0.01% is required for the net impact of these regulations to be positive.
- 12.2 There is no, or no significant, impact on the public sector. Government has worked closely with devolved administrations to ensure there is no significant impact on the public sector.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

¹ <https://www.gov.uk/government/consultations/the-consumer-experience-at-public-electric-vehicle-chargepoints/the-consumer-experience-at-public-chargepoints>

- 13.2 To avoid placing burdensome requirements on microbusinesses, Government is excluding charge point operators who are considered a microbusiness, as defined in the Small Business, Enterprise and Employment Act 2015 in regulations 5 to 10 of this instrument.
- 13.3 The Impact Assessment published alongside the Explanatory Memorandum includes a full Small and Micro Business Assessment.

14. Monitoring & review

- 14.1 The approach to the monitoring of this legislation is through the enforcement body who will be able to evaluate compliance with the regulations. The instrument includes reporting requirements on reliability, helpline calls and roaming. Metrics to monitor the effectiveness of these regulations could also include:
- improvements in the reliability of public charge points;
 - qualitative metrics such as consumer attitudes and awareness around the consumer experience at public charge points; and
 - the development of payment roaming across the public charging network.
- 14.2 A statutory review clause is included in the instrument for a review every 5 years. The AEVA also contains a requirement for the Secretary of State to prepare a report every 12 months assessing the impact and effectiveness of the regulations made under Part 2 and the need for regulations to be made under this part going forward.

15. Contact

- 15.1 Suman Nambiar at the Department for Transport. Email: consumerofferconsult@ozev.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Lizzie Culwick, Joint Head for the Office for Zero Emission Vehicles at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt. Hon. Jesse Norman MP, Minister of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.