

**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM
(MEMORANDUM NUMBER 2)**

AUTOMATED VEHICLES BILL

1. This Legislative Consent Memorandum is laid under Standing Order (SO) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies, the legislative competence of the Senedd.
2. Specifically, this supplementary Memorandum relates to the requirement in SO 29.2(iii)(b) to lay such a memorandum in relation to a Bill that by virtue of amendments tabled by a Minister of the Crown makes relevant provision for the first time.
3. The Automated Vehicles Bill (“the Bill”) was introduced in the House of Lords on 8 November 2023. I laid a Legislative Consent Memorandum on 24 November 2023: <https://senedd.wales/media/50zh3svv/lcm-ld16168-e.pdf>.
4. The Bill’s passage so far has been:

1 st reading	8 November 2023
2 nd reading	28 November 2023
Committee stage	from 10 January 2024
Report stage	6 February 2024
5. The Bill can be found at:
<https://bills.parliament.uk/publications/52908/documents/3984>.

Policy objectives

6. Automated vehicles are fast approaching commercialisation in markets across the world. By 2035, 40% of new cars in the UK could have self-driving capabilities. Grocery deliveries and passenger services look likely to be operating in self-driving vehicles within a similar timeframe.
7. The UK Government established the Centre for Connected and Autonomous Vehicles (CCAV) in 2015 to bring together Connected and Automated Mobility (CAM) technology developers, vehicle manufacturers and suppliers, academia, insurers, local and regional government, and transport bodies, among many others, to test and develop policy and to build UK capabilities and supply chains.
8. The UK Government’s Vision for CAM is that, by 2025, the UK will begin to see deployments of self-driving vehicles, improving ways in which people and goods are moved around the nation and creating an early commercial market for the technologies. This market will be enabled by a comprehensive regulatory, legislative and safety framework, served by a strong British supply chain and skills base, and used confidently by businesses and the public alike.

Summary of the Bill

9. The Bill implements the recommendations of the 4-year review of regulation for automated vehicles carried out jointly by the Law Commission of England and Wales and the Scottish Law Commission (the Law Commissions). It is intended to set the legal framework for the safe deployment of self-driving vehicles in Great Britain.
10. The UK Government's response to the recommendations was published in the Connected and Automated Mobility 2025: [Realising the benefits of self-driving vehicles in the UK](#) (CAM 2025) in August 2022.² Based on the Law Commissions' recommendations, CAM 2025 committed to set out a legal and safety framework to provide clarity of responsibility for self-driving vehicles and to put in place new safety requirements. The framework applies to vehicle systems that can drive a vehicle, for some or all of a journey, with no human input. Such systems are considered 'self-driving', and legal responsibilities change. This technology is distinct from technology that supports a driver (driver assistance technology), where the driver always remains responsible. The Law Commissions recommended that it should be a criminal offence to market a vehicle as self-driving if it does not meet the legal definition.
11. The Bill makes provision regulating the use of automated vehicles. Broadly, it does so by:
 - creating an authorisation regime which confers a power on the Secretary of State to authorise certain automated vehicles or classes of automated vehicles for use on roads;
 - making provision about "regulated bodies", which will have ongoing responsibility for the automated features and operation of authorised automated vehicles;
 - making extensive provision for enforcement in relation to automated vehicles, including in relation to regulated bodies;
 - providing for a permitting system for automated vehicles which carry passengers.
12. The Bill has seven parts:
 - Part 1: Regulatory scheme for automated vehicles
 - Part 2: Criminal liability for vehicle use
 - Part 3: Policing and investigation
 - Part 4: Marketing restrictions
 - Part 5: Permits for automated passenger services.
 - Part 6: Adaption of existing regimes
 - Part 7: General provision

Amendments tabled at Lords Report stage making provision for which consent is required

13. The UK Government has tabled the following amendments making provision requiring Senedd consent:

- An amendment to clause 88(5) which corrects a drafting mistake, enabling the Welsh Ministers to make regulations about information-sharing in relation to passenger services within their competence:

Clause 88, page 62, line 1, leave out “Secretary of State” and insert “appropriate national authority”

- An amendment to the Bill so the affirmative procedure is applicable to the powers in paragraph 2(7) of Schedule 6. The regulation making procedure will be outlined in Clause 97. This amendment will mean that regulations setting the maximum monetary penalties under the automated vehicle authorisation scheme and the passenger service permitting scheme will be subject to the affirmative procedure.

Clause 97, page 70, line 6, leave out subsections (5) to (8) and insert—

- “(5) The following regulations are subject to the affirmative procedure—*
- (a) regulations under section 36(9),*
 - (b) regulations under section 50 that amend an Act, an Act of the Scottish Parliament or an Act of Senedd Cymru, and*
 - (c) regulations under paragraph 2(7) of Schedule 6;*
- and all other regulations are subject to the negative procedure.*
- (6) The effect of regulations being subject to the affirmative procedure is—*
- (a) in the case of regulations made by the Secretary of State, that the statutory instrument containing the regulations may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament;*
 - (b) in the case of regulations made by the Welsh Ministers, that the statutory instrument containing the regulations may not be made unless a draft of it has been laid before, and approved by a resolution of, Senedd Cymru [sic];*
 - (c) in the case of regulations made by the Scottish Ministers, the effect provided by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).*
- (7) The effect of regulations being subject to the negative procedure is—*
- (a) in the case of regulations made by the Secretary of State, that the statutory instrument containing the regulations is (unless it also contains regulations subject to the affirmative procedure) subject to annulment in pursuance of a resolution of either House of Parliament;*
 - (b) in the case of regulations made by the Welsh Ministers, that the statutory instrument containing the regulations is (unless it also*

contains regulations subject to the affirmative procedure) subject to annulment in pursuance of a resolution of Senedd Cymru [sic]; (c) in the case of regulations made by the Scottish Ministers, the effect provided by section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010.”

14. We have drawn the typographical errors to the attention of the UK Government.

Delegation of powers

15. The delegated powers for the Welsh Ministers in clauses 82 and 90 are not affected by the amendments set out above.

16. The amendments set out above confer an additional delegated power on the Welsh Ministers (clause 88(5)) and require the affirmative procedure for the existing delegated power at paragraph 2(7) of Schedule 6.

17. We are continuing to explore whether amendments could be made to clause 93, which enables the Secretary of State by regulations to make provision requiring a traffic regulation authority to provide prescribed information about a relevant traffic regulation measure in England, to confer the equivalent power on the Welsh Ministers in relation to Wales. Clause 93 is intended to facilitate the availability of digital information which can be used by automated vehicles, or indeed other vehicles with electronic driver assistance features, to comply with rules set out in legislation such as Traffic Regulation Orders. Given the interconnectedness of the Wales and England transport systems, we believe it would be advantageous for such information to be available at the same time, and powers for the Welsh Ministers in clause 93 would enable us to work effectively with the UK Government on this.

UK Government view on the need for consent

18. The UK Government's view accords with the Welsh Government's.

Reasons for making these provisions for Wales in the Bill

19. The amendments do not alter my view that the relevant provisions in the Bill can only be made by way of primary legislation, and that the following circumstances apply:

- The UK Government's legislative proposal is appropriate for Welsh circumstances, as the Welsh Government recognises the need to facilitate the safe and efficient deployment of self-driving vehicles.
- The interconnected nature of the transport system in Wales and England, and the combination of reserved and devolved matters involved, mean that it is most effective and appropriate for provision for both to be taken forward at the same time in the same legislative instrument. For these reasons it is unlikely that making provision via the taxi and/or bus Bills planned to be introduced into the Senedd would be satisfactory.

- As indicated above, technology is advancing rapidly in this area and it is important that the legislative framework keeps pace and is fully aligned across the UK.

Financial implications

20. The amendments do not affect my view that administrative costs to the Welsh Government arising from the permitting system set out in the Bill could be met from within existing budgets.

Conclusion

21. For the reasons set out above, it is my view that it is appropriate to deal with the provisions included in this memorandum in this UK Bill.

22. Discussions continue with the UK Government about clause 40 of the Bill, which impacts on devolved matters by conferring reserved functions on devolved Welsh authorities (local authorities in Wales), and therefore requires the Senedd's consent. By regulations made under clause 40, the Secretary of State may require reports from a chief officer of police and certain authorities which include the Scottish Ministers and local authorities in Wales, but not the Welsh Ministers. As I set out in the previous Memorandum, we believe the omission of the Welsh Ministers may be an oversight.

23. I will provide a further update to the Senedd on the discussions with the UK Government in respect of clauses 40 and 93 in due course.

Lee Waters MS
Deputy Minister for Climate Change
February 2024