EXPLANATORY MEMORANDUM TO

THE AUTOMATED VEHICLES (MARKETING RESTRICTIONS) REGULATIONS 2026

2026 No. 733

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Simon Lightwood MP, Parliamentary Under Secretary of State (Minister for Roads and Buses) at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

2.2 Simon Connick, Deputy Director for the Centre for Connected and Autonomous Vehicles, at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Muhammed Badat at the Department for Transport can be contacted by email at the following address with any queries regarding the instrument: avimplementation@ccav.gov.uk. Alternatively, the department can be contacted by telephone: 0300 330 3000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of these Regulations is to specify a list of restricted marketing terms under section 78 of the Automated Vehicles Act 2024 ("the Act").

4.2 Section 78 of the Act provides that these restricted terms may only be used in connection with road vehicles if they are used in connection with road vehicles that are authorised as automated vehicles under section 3 of the Act. This measure is designed to:

4.2.1 Safeguard the integrity of the authorisation scheme under section 3 of the Act;

4.2.2 Promote fair competition, and encourage investment in the development of authorised automated vehicles, by preventing vehicles that are not authorised from being marketed as if they were;

4.2.3 Protect public safety by mitigating confusion and ignorance among drivers surrounding the capabilities of vehicles that are not authorised automated vehicles and the responsibilities of drivers operating them; and

4.2.4 Build trust in self-driving technology.

4.3 Subject to potential defences provided for by section 78 of the Act, and if the other elements of the offence are present, a person commits an offence by using, or causing or permitting the use of, a restricted term in connection with the promotion or supply

of a road vehicle, or of a product intended for use as equipment of a road vehicle, if the road vehicle is not an authorised automated vehicle.

4.4 An authorised automated vehicle is a road vehicle authorised under section 3 of the Act for use as an automated vehicle (or, until paragraph 5 of Schedule 2 to the Act is in force, a vehicle listed under section 1 of the Automated and Electric Vehicles Act 2018).

Where does the legislation extend to, and apply?

4.5 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Scotland and Wales.

5. Policy Context

What is being done and why?

5.1 The Act establishes the legal framework for the safe introduction of self-driving vehicles in Great Britain, based on the recommendations of the Law Commission of England and Wales and the Scottish Law Commission (the "Law Commissions").[1] As part of their 4-year review, the Law Commissions considered the existing law in this area and concluded that it did not provide adequate protection. To address this gap in the law, the Law Commissions recommended two new offences: a protected terms offence and a general confusion offence. These offences are enshrined in sections 78 and 79 of the Act.

5.2 To the extent that existing consumer protection and product safety laws cover the issue of misleading marketing, the Law Commissions considered their application to self-driving technologies as cumbersome and uncertain. Existing laws also only apply at the point of sale or supply, and do not address consumer confusion during use. This left a significant gap in legal protections and presented clear risks to public safety. The Law Commissions considered that additional legal protections were essential in the interests of public safety and to protect consumers from being misled regarding the capabilities of vehicles equipped with these new technologies and their responsibilities as users, including where terminology has the potential to be particularly misleading (such as misuse of the terms "self-driving" and "drive itself"). The Law Commissions also recommended a safety authorisation scheme to ensure self-driving vehicles meet government standards and can drive themselves safely and legally before they can be deployed on public roads. This is enshrined in section 3 of the Act.

5.3 The main policy objectives, described in paragraph 4.2, are to address the problem of misleading marketing and mitigate against the risk of consumer confusion in relation to automated vehicle technology, so as to protect the integrity of the safety authorisation process under the Act and in the interests of fair competition in the industry. If businesses could describe driving automation technologies as "self-driving" even when those technologies have not been authorised, this would undermine the effectiveness of the safety authorisation scheme and businesses would be able to gain an unfair advantage. Mitigating against the risks of consumer

[1] webarchive.nationalarchives.gov.uk/ukgwa/20250109114535mp_/https:/cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/30/2022/01/Automated-vehicles-joint-report-cvr-03-02-22.pdf

confusion will in turn support public trust and confidence in this new technology, facilitate its deployment and help realise its benefits. The Act enables the Government to restrict the use of certain automation-related terms, which it has done through these Regulations.

5.4 The list of restricted terms in these Regulations is:

- Automated
- Automated driving
- Autonomous
- Autonomous driving
- Drive autonomously
- Drive itself
- Driverless
- Self-driving

5.5 The terms 'automated' and 'autonomous' are restricted terms only when used to describe a vehicle as a whole or the overall driving functionality or capability of a vehicle. A restricted term also includes variants of the term resulting from its assignment to a different part of speech and other grammatical forms of the term.

5.6 Using, or causing or permitting to be used, any restricted term in the promotion or supply of a vehicle that is not an authorised automated vehicle constitutes an offence under section 78 of the Act, if the other elements of the offence are present and subject to statutory defences.

5.7 This regulatory approach aligns with broader consumer protection and road safety objectives by ensuring that marketing language accurately reflects a vehicle's technological capabilities and authorisation status. This policy will support drivers to understand the capabilities and limitations of vehicle automation technologies and their legal responsibilities, and supports the Government's road safety strategy[2] and road safety ambitions. The expected outcome is increased investor confidence, consumer trust, fair competition, and driver certainty.

What was the previous policy, how is this different?

5.8 This is novel policy, introduced by the Act. As noted in paragraphs 5.1 and 5.2, prior to the Act, the Law Commissions considered that the existing law provided inadequate protection and recommended new offences to address this.

6. Legislative and Legal Context

How has the law changed?

6.1 This is the first time that the power in section 78(1) of the Act will be used. Before the Act, there were no specific offences relating to the misleading marketing of automated vehicles and therefore no list of restricted terms.

Why was this approach taken to change the law?

6.2 The approach taken to set out the list of restricted terms in these Regulations made under section 78(1) of the Act is in line with the Law Commissions'

[2] https://www.gov.uk/government/publications/road-safety-strategy

recommendations. The Law Commissions recommended that it should be a criminal offence to engage in a commercial practice using certain terms in connection with driving automation technology designed for use on roads or in public places unless the driving automation technology is specified as a self-driving feature by the authorisation authority under the automated vehicle authorisation scheme recommended in their report. The Law Commissions recommended that the list of restricted terms should include the terms "self-drive", "self-driving", "drive itself", "driverless", "automated vehicle" and any other terms prescribed by the Secretary of State for Transport in regulations.[3] The approach of setting out a clear list of restricted terms in Regulations will give certainty to businesses and ensure consistent public messaging about what is and what is not self-driving technology. The list can also be updated in future in light of evolving language and marketing.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with section 97(2) of the Act, the Department for Transport consulted with relevant stakeholders, including representatives of the automotive industry, consumer groups and marketing regulators.

7.2 The Department for Transport conducted a formal public consultation on the proposals between 10th June 2025 and 1st September 2025. A total of 71 responses were received, with 48 participants responding on behalf of organisations. The Government published its response to the consultation on 7th July 2026.[4]

7.3 The consultation asked whether, in principle, certain terms should be protected for authorised AVs and, if so, which terms. Stakeholders broadly supported the policy aims of the measure. 68% of all respondents agreed that certain terms should be protected, 20% said they didn't know or didn't answer, and only 13% disagreed. The responses to the consultation showed strong support for protecting the terms consulted on so that they can only be used in connection with vehicles that are authorised as self-driving and can drive themselves safely and legally. Between 69 and 77% of all respondents agreed with protecting the main terms, including 76% who agreed with protecting the term "self-driving".

7.4 There was some disagreement at consultation. It was claimed that that "self-driving", for example, is an umbrella term used globally to describe varying degrees of automation; that if emerging advanced driver assistance technologies could not be described in this way, it would hinder the successful adoption of these technologies and prevent the realisation of their benefits and risks stifling innovation. It was said that any confusion could be addressed in other ways, for example through system design, and that the Government should instead rely solely on the section 79 general confusion offence without having a list of protected terms

7.5 The Department for Transport also received representations about the proposals after the conclusion of the formal consultation period and following publication of other materials. These representations have also been considered. The Government has carefully considered these representations and considers these Regulations to be necessary, reasonable and proportionate. The Government is not restricting the

[3] webarchive.nationalarchives.gov.uk/ukgwa/20250109114535mp_/https:/cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/30/2022/01/Automated-vehicles-joint-report-cvr-03-02-22.pdf, Recommendation 34

[4] www.gov.uk/government/consultations/automated-vehicles-protecting-marketing-terms

adoption or benefits of advanced driver assistance technologies, only the terminology used to describe them. For the reasons set out in its response to the consultation, the Government has decided to proceed with these Regulations.

7.6 The Welsh and Scottish devolved governments have been consulted throughout policy development and raised no material concerns.

8. Applicable Guidance

8.1 The Department for Transport will not issue supplementary guidance to accompany publication of the SI.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument because the Estimated Annual Net Direct Cost to Business is assessed to be below £10 million in accordance with the Better Regulation Framework. The Government is aware that one affected business has made representations asserting that the regulations would cause substantial financial harm. Those representations have been carefully considered, but the business did not provide sufficient evidence of costs, including for example in relation to the nature, scale of costs and how they have been determined (as businesses were requested to provide at consultation), to conclude that the Estimated Annual Net Direct Cost to Business would be in excess of £10 million. A Final Stage De Minimis Assessment has been prepared and will be published alongside this instrument, which addresses the business impacts in detail. The Assessment notes that the Regulations only address the marketing of vehicle automation technology and not the technology itself.

9.2 The De Minimis Assessment calculates a monetised net present value (in 2025 prices) between -£3,920 and -£411,596 over 10 years, which is likely outweighed by non-monetised benefits.

9.3 Monetised costs are composed of: Familiarisation cost to businesses - an expected one-off direct cost to businesses of £21,498 (range of £3,473 to £178,585); Immediate compliance cost – an estimated one-off direct cost to businesses of £60.26 (range of £28.21 to £124.77); Familiarisation costs for users – a one-off direct cost to households of £20,948 (range of £419 to £232,886).

9.4 In addition to monetised costs and benefits, the De Minimis Assessment discusses the following non-monetised impacts (with the expected direction impact and whether the impact was assessed as direct or indirect): Promoting fair competition (positive, indirect); Protecting road safety (positive, indirect); Protecting public trust in automated vehicles (positive, indirect); UK shareholder cost (uncertain, indirect); Rebranding costs (negative, indirect); Vehicle sales (uncertain, indirect); Ongoing compliance cost (negative, direct); Reduced legal uncertainty (positive, indirect);

Impact on businesses, charities and voluntary bodies

9.5 There is no significant, impact on charities or voluntary bodies because the provisions relate to the commercial marketing, sale, and description of automated vehicle technologies. These activities are undertaken by manufacturers, developers, and commercial distributors rather than the charitable or voluntary sector. The measures do not place new regulatory burdens, compliance costs, or enforcement obligations on charities or voluntary organisations, nor do they affect their ability to deliver services,

raise funds, or engage with beneficiaries. Any indirect effect is expected to be negligible.

9.6 The impact on business is expected to be small and proportionate to the benefits of truthful and consistent advertising. To the extent that the regulations would entail costs to businesses operating in GB and across other jurisdictions in the short-term, the Government considers that this burden is justified and outweighed by the benefits to public safety and the benefits to businesses of fair competition, promoting public understanding and trust in the technology in the long-term. The assessed costs and benefits are set out above, with further details in the De Minimis Assessment. An assessment of the impact to businesses is also included in the De Minimis Assessment.

9.7 The Regulations do impact small or micro businesses.

9.8 All businesses are expected to benefit from the certainty of having a defined list of protected marketing terms. The potential impacts on small or micro businesses are expected to be small due to the protected terms being introduced before they are generally being used by businesses in their marketing of driving automation technologies. Mitigating the impact on small and medium sized businesses by excluding them would affect, to an unacceptable extent, the ability of the legislation to achieve the desired outcomes.

9.9 There is no, or no significant, impact on the public sector because the nominated enforcement agency, the Driver and Vehicle Standards Agency (DVSA), will utilise the existing Market Surveillance Unit. This area is closely aligned to the current function which already covers similar areas and funding is available to enable DVSA to undertake this role.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department for Transport will monitor the implementation of these Regulations and assess the need for updates in light of technological and market developments. The nominated enforcement agency, DVSA, will be responsible for market surveillance and for pursuing enforcement and preventing the offending conduct on behalf of the Secretary of State for Transport. The Government will also monitor the need to update the list of protected terms in future in response to evolving language and marketing.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Simon Lightwood MP has made the following statement:

"A statutory review clause is not included in the instrument because it is not appropriate in the circumstances to make provision for review in the instrument. A review would be disproportionate when taking into account the economic impact of the instrument and there are no factors that would make it particularly desirable to include a review clause."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").