EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (AUTHORISATION OF SPECIAL TYPES) (GENERAL) (AMENDMENT) ORDER 2023

2023 No. 524

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. Purpose of the instrument

2.1 This instrument makes provision for the use on roads within Great Britain of longer semi-trailers ("LSTs"), a type of semi-trailer used for the movement of goods. LSTs exceed the maximum length currently permitted for semi-trailers and were previously used only on a trial basis under a Vehicle Special Order. This instrument amends the Road Vehicles (Authorisation of Special Types) (General) Order 2003 to permit to use of LSTs in Great Britain subject to compliance with requirements relating to their construction and use.

2.2 The instrument also adds the prohibition on the use of hand-held mobile telephones and other handheld devices while driving to the list of Construction and Use Regulations with which drivers of vehicles used for tests, trials and non-UK use are required to comply.

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

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

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Part II of the Road Traffic Act 1988 (c.52) ("the 1988 Act") provides for the construction and use of vehicles and their equipment. Section 41 of the 1988 Act includes a power for regulations to be made about the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be used. This power enables the Secretary of State to make provision with respect to the length of road vehicles.

6.2 Section 41D of the 1988 Act (Breach of requirements as to control of vehicle, mobile telephones etc.) makes it an offence to contravene or fail to comply with a prohibition relating to the driving or the supervision of a motor vehicle while using a handheld mobile telephone or other handheld interactive communication device.

6.3 The Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078), ("the 1986 Regulations"), (as amended), made under section 41 of the 1988 Act, make provision for various construction and use requirements. In particular, Regulation 7 provides for the maximum lengths of road vehicles, and Regulation 110 contains the prohibition of the use of mobile telephones and other handheld devices while driving or supervising the driving of a motor vehicle.

6.4 Section 42 of the 1988 Act makes it an offence to contravene or fail to comply with a requirement under section 41, or to use or cause or permit to be used on a road a vehicle which does not comply with a requirement under that section.

6.5 Section 44 of the 1988 Act allows the Secretary of State to make orders authorising the use on roads of certain vehicles and trailers not complying with regulations made under section 41 of the 1988 Act. This includes special motor vehicles and trailers, or special types of motor vehicles and trailers, constructed either for special purposes or for tests and trials. It also includes vehicles or types of vehicles constructed for use outside the United Kingdom, and new or improved types of motor vehicles or trailers, whether wheeled or wheelless. We consider both LSTs and vehicles constructed for tests, trials and non-UK use to fit these descriptions.

6.6 Orders under section 44 may be subject to specified conditions and restrictions. Where vehicles are used in accordance with such an order, regulations made under section 41 do not apply to them. Neither do certain criminal offences including the offence under section 42. Conversely, if such vehicles are not used in accordance with the order, regulations under section 41 become applicable to them and an offence will potentially be committed under section 42 of contravening or failing to comply with those regulations.

6.7 This instrument amends the Road Vehicles (Authorisation of Special Types) (General) Order 2003 ("the 2003 order") to make provision for the general use of LSTs on roads as a special type of vehicle, subject to specified authorisation requirements. These requirements relate to the maximum length for LSTs and certain technical aspects of their construction. The provisions also restrict the use of LSTs to routes specified on a route plan and for which a risk assessment has been completed. They require copies of route plans and risk assessments to be kept by operators for two years beginning with the date the LST was last used on the relevant route, and in the towing vehicle whenever the LST is used on the route. For monitoring and evaluation purposes, there is a requirement for an operator of an LST to notify the Secretary of State of their intention to use that LST on a road before it is first used by that operator, which will apply for an initial five-year period after the order comes into force.

6.8 LSTs will also be subject to all the requirements of the 1986 Regulations apart from those relating to length and turning circles. They will also be subject to the Road Vehicles (Authorised Weights) Regulations 1998, the Road Vehicles Lighting Regulations 1989 and the Goods Vehicles (Plating and Testing) Regulations 1988.

6.9 The authorisation requirements for drivers of vehicles used for tests, trials and non-UK use are set out at Regulations 37 to 40 and in Schedule 11 of the 2003 order.

Table 16 of schedule 11 contains the list of construction and use requirements with which such vehicles must comply.

6.10 The 2003 Order was made on 4 August 2003, and the general prohibition on drivers using a hand-held mobile phone or other handheld device in its original form was introduced by the Road Vehicles (Construction and Use (Amendment) (No 4) Regulations 2003 (S.I. 2003/2695). This instrument inserted Regulation 110 into the 1986 Regulations and was made on 20 October 2003. The prohibition on using mobile phones was therefore not included in the 2003 Order and has never subsequently been inserted into Table 16 of schedule 11.

7. Policy background

What is being done and why?

7.1 This instrument makes provision for authorising the use on roads within Great Britain of LSTs, a type of trailer for use in the movement of goods. Prior to this instrument coming into force, LSTs have only been used under trial conditions, authorised for a temporary period. The maximum length of an LST is 15.65 metres, 2.05 metres longer than the maximum length of a normal semi-trailer. An LST when towed by a tractor unit has a maximum combination length of 18.55 metres, less than that permitted for international and national circulation of road trains (rigid lorries with full trailer combinations).

7.2 The trial, which has been in operation since 2012, has monitored the operational performance of LSTs, with a fleet size of up to 2,800 LSTs permitted. The results have indicated that there are fewer journeys made to move the same total volume of product, with reductions in the number of journeys required to transport product compared to standard sized vehicles, averaging about 1 in 12 journeys. The trial has exhibited significant environmental and safety benefits.

Explanations

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

7.3 Prior to the changes made by this instrument, LSTs have been in use on GB roads only under trial conditions, further to orders made under section 44 of the 1988 Act.

7.4 Operators participating in the trial were required to apply in respect of each specific trailer to the Vehicle Certification Agency (VCA) for a vehicle special order (VSO), to use their LSTs commercially. Trial participants were also required to sign an undertaking agreeing to certain terms as part of their application to VCA. If a trailer was sold, transferred or its status in the trial otherwise changed, the operator was required to inform VCA so that the VSO could be updated.

7.5 Each VSO specified the operator's name and address, the vehicle identity number(s) of the trailer(s) covered by the order and the technical requirements to be met by the trailer(s). The undertaking signed by operators additionally confirmed their agreement to be bound by other conditions of the trial. These included undertaking annual roadworthiness testing of the trailers, providing data to DfT's contractors for the purposes of monitoring the trial and requirements relating to driver training and incident reporting.

7.6 Prior to the end of the Implementation Period at 31st December 2020, the UK was bound by European Council Directive 96/53/EC of 25 July 1996 (https://eur-

lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31996L0053&from=EN) laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic.

7.7 The Directive has been interpreted by authorities in the EU as restricting the operation by EU Member States of longer types of vehicles, such as LSTs, to trial conditions only. This interpretation no longer applies to the operation of LSTs in the UK. The use of LSTs under this instrument will be restricted to transport wholly within the UK. LSTs are not permitted in normal service (outside trials) in the EU and there is no requirement for EU Member States to allow them in general circulation.

Why is it being changed?

7.8 The longstanding LST trial demonstrated a range of benefits from the use of LSTs. As summarised in the 2020 annual report (https://www.gov.uk/government/publications/longer-semi-trailer-trial-evaluation-annual-report-2020), the trial results indicated that on average, the use of LSTs has reduced journey numbers by 1 in 12, with more than 66 – 73 million vehicle kilometres saved; 60,000 tonnes of CO2(e) and 92 tonnes of NOx had been saved; and on a per kilometre basis LSTs had been involved in about 47% fewer personal injury collisions and casualties than the GB articulated heavy goods vehicle (HGV) average.

7.9 The department's view, informed by emerging conclusions from the trial, is that sufficient data is available to answer the key questions which the trial was designed to answer. The trial was not due to end until 31 January 2027, but this date is earlier than the likely operational lifespan of an LST first built in 2020. A consultation was therefore done between 9 November 2020 and 1 February 2021 to inform the future of LST operations. It considered whether to conclude the trial prior to 2027, and (if a decision were taken to do so) how to regulate LSTs used outside trial conditions.

7.10 Further to the consultation, a decision in principle was taken and published to permit the general use of LSTs, with some specific additional regulatory requirements. The additional requirements focus on the assessment of risk and routes used by operators of LSTs. They are designed to help maintain the efficient and safe operation of the LST type exhibited in the trial. This instrument is required to implement these changes.

7.11 With regard to the use of hand-held mobile phones while driving, this has been an offence since 2003. Government regards it as reckless and it puts lives at risk. Indeed, the law was tightened up in 2022. The Road Vehicles (Construction and Use) (Amendment) (No 2) Regulations (S.I. 2022/81) extended the offence to times when a mobile phone or similar device is being used for offline or standalone functions as well as for the interactive communication functions that had always been covered.

7.12 The absence of any reference to Regulation 110 in Table 16 of schedule 11 to the 2003 order is clearly a gap in the law arising from the fact that the Order has not been amended since the hand-held mobile phone offence came into force. Drivers of vehicles used for tests, trials or non-UK use should not be using a hand-held mobile phone or other handheld device while driving and so this Order takes the opportunity to add Regulation 110 to the list of C&U Regulations that apply to drivers using vehicles in these circumstances.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no current plans to consolidate the 2003 Order.

10. Consultation outcome

10.1 A public consultation relating to the future of the LST trial was undertaken between 9 November 2020 and 1 February 2021 (https://www.gov.uk/government/consultations/ending-the-longer-semi-trailer-trial/longer-semi-trailer-trial). A total of 46 responses were received to the consultation document and questionnaire issued. The main areas asked about in the consultation concerned the general circulation of LSTs, LSTs being removed from circulation altogether, what level of additional regulation LSTs should be subject to and issues regarding safety hazards. This consultation offered three options on how to proceed involving the operation of LSTs in general circulation like other articulated lorries, and two options which would have added supplementary rules and conditions to their use.

10.2 A Government response to this consultation was published on 24 August 2021 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012504/ending-the-longer-semi-trailer-trial-consultation-response.pdf), with an associated impact assessment published on 24 June 2022 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1103596/ending-the-longer-semi-trailer-trial-impact-assessment-2022.pdf).

10.3 57% of respondents felt that LSTs should be in general circulation and could see the positive effects for the industry and environment. 43% of respondents felt that LSTs should be removed from circulation entirely. 31% agreed that they should be brought into general circulation with no restrictions on numbers.

10.4 Three options were put forward regarding the applicable regulation if LSTs were to be brought into general use, with the preferred option being a lighter regulatory option. 36% of respondents agreed that the lighter regulatory option was the best approach. 20% of respondents favoured the introduction of LSTs into general circulation without additional regulation. 4% of respondents felt that another approach should be sought, suggesting that modal shift to rail should be encouraged. In all, 60% felt that the heavier regulatory approach was not necessary.

10.5 The option taken forward after the consultation for LSTs is to make some specific regulation for them in addition to allowing most of the legislation applicable to the operation of normal sized trailers as part of heavy goods vehicle combinations to apply to LSTs. The proposed additional specific regulation is the lighter of two versions put to consultation.

10.6 There has been no consultation on the addition of the Regulation 110 offence to the list of applicable C&U Regulations for vehicles used for tests, trials and non-UK use. We regard this is a technical gap that needs to be addressed so that the prohibition on using a hand-held mobile phone while driving is applied comprehensively.

11. Guidance

11.1 Guidance to operators of LSTs has been prepared in conjunction with stakeholders. This is anticipated to be published shortly.

12. Impact

12.1 A full Impact Assessment relating to the introduction of LSTs was undertaken and published on 24 June 2022 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1103596/ending-the-longer-semi-trailer-trial-impact-assessment-2022.pdf). A slightly revised version is submitted with this memorandum and published alongside it on the legislation.gov.uk website.

12.2 The impact on business, charities or voluntary bodies is limited. The costs resulting from this instrument will only apply to businesses that choose to utilise the additional regulatory freedoms for which it provides. Operators of LSTs would incur the additional cost of purchasing LSTs (on top of normal replacement costs), plus the costs from complying with the new regulatory provisions and familiarisation costs on operators.

12.3 The impact on the public sector is limited. As part of the Impact Assessment, further costs have been calculated to assess the impact of reduced taxation revenue as a result of lower fuel consumption.

12.4 No Impact Assessment has been prepared for the Regulation 110 element of the SI. The measure is simply closing a gap so that the offence applies consistently and comprehensively.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses because this instrument is permissive. There is no obligation for operators to make use of LSTs.

14. Monitoring & review

14.1 A statutory review clause is included in the instrument. A review into the regulatory provisions contained within Article 4 of this instrument is to be carried out, and a report setting out its conclusions is to be published. The report is to be published before the end of the period of five years beginning with the date on which these provisions come into force.

15. Contact

15.1 Michael Sedgwick at the Department for Transport, Telephone: 07500 573572 or email: michael.sedgwick@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Duncan Price, Deputy Director for Road Freight Regulation, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Richard Holden MP, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.