



HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

1st Report of Session 2022–23

**Instruments under the European Union
(Withdrawal) Act 2018:
Published Draft Instrument
Proposed Negative Instrument**

Drawn to the special attention of the House:

**Draft Highway Code Amendment (Self-Driving
Vehicles) 2022**

Correspondence: Russia (Sanctions) (EU Exit) (Amendment
No.8) Regulations 2022

Includes information paragraphs on:

Draft Pharmacy (Responsible Pharmacists,
Superintendent Pharmacists etc.) Order 2022

Genetically Modified Food and Feed
(Authorisations) (England) Regulations 2022

Russia (Sanctions) (EU Exit) (Amendment)
(No. 9) Regulations 2022

Export Control (Amendment) Order 2022

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Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as amended on 13 May 2021, are set out on the website but are, broadly:

To report on draft instruments published under paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018; to report on draft instruments and memoranda laid before Parliament under sections 8 and 23(1) of the European Union (Withdrawal) Act 2018 and section 31 of the European Union (Future Relationship) Act 2020.

And, to scrutinise –

- (a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;
- (b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

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[Lord Powell of Bayswater](#)

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Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/>

Committee Staff

The staff of the Committee are Christine Salmon Percival (Clerk), Philipp Mende (Adviser), Jane White (Adviser) and Emily Pughe (Committee Operations Officer).

Further Information

Further information about the Committee is available at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/ukxi>

Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hlseclegscrutiny@parliament.uk.

First Report

INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

Consideration of published draft instrument under Schedule 8 to the European Union (Withdrawal) Act 2018

Published draft on which the Committee makes no recommendations

- Merchant Shipping (High Speed Craft) Regulations 2022

Consideration of proposed negative instruments under Schedule 7 to the European Union (Withdrawal) Act 2018

Proposed negative instrument about which no recommendation to upgrade is made

- Public Regulated Service (Galileo) (Revocation) Regulations 2022

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft Highway Code Amendment (Self-Driving Vehicles) 2022

Date laid: 25 April 2022

Parliamentary procedure: negative

New technology for self-driving cars is advancing rapidly and this change to the Highway Code is to make clear the responsibilities of the driver when using a car in that mode. Further, more comprehensive, legislation on the subject was announced in the Queen's Speech, but interim measures have been necessary as the first self-driving vehicles are expected to reach the UK market later this year. We were again disappointed that the Explanatory Memorandum provided by the Department for Transport included little material on the safety aspects of this technology, so this report includes additional information that the Department supplied on request.

This instrument is drawn to the special attention of the House on the grounds that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House.

Legislative background

1. This instrument brings into effect a new section in the Highway Code which sets out the responsibilities of a driver when using a self-driving vehicle. Unlike assistive functions, such as cruise control, where the driver is still in charge of the vehicle, these vehicles are capable of safely driving themselves and the driver does not need to monitor them. The new section makes clear that the driver may take their attention away from the road and may view content on the vehicle's built-in screen, if available, but may not use a hand-held mobile phone or similar device. The driver must still be fit to drive and stay awake to take back control when prompted by the vehicle.
2. The new section uses the term 'self-driving vehicle' for any vehicle listed as an 'automated vehicle' by the Secretary of State for Transport under section 1 of the Automated and Electric Vehicles Act 2018. None have yet been approved for use but the earliest models are expected to reach the UK later this year.
3. The first self-driving vehicles likely to be approved for use in Great Britain are those with automated lane keeping system technology (ALKS).¹ ALKS technology is designed to operate at relatively low speeds on motorways, controlling the lateral and longitudinal movement (speed and direction) of the vehicle to keep it within its lane. Initial UN regulations limited the technology to cars and to speeds on motorways of up to 37 mph, however this is to be extended to other vehicle categories from June 2022.²
4. Further, more comprehensive legislation on the subject was announced in the Queen's Speech, but interim measures have been necessary to keep up with

1 United Nations Economic Commission for Europe, 'Status of the 1958 Agreement (and of the annexed regulations)': <https://unece.org/status-1958-agreement-and-annexed-regulations> [accessed 17 May 2022].

2 United Nations Economic Commission for Europe, 'UN regulation on Automated Lane Keeping Systems (ALKS) extended to trucks, buses and coaches': <https://unece.org/media/press/362551> [accessed 17 May 2022].

the pace of development. The Department for Transport (DfT) informed us in supplementary material that:

“This follows a four-year, world-leading review of legislation by the Law Commissions, at the request of the Centre for Connected and Autonomous Vehicles.³ It is our intention that the primary legislation will be followed by secondary legislation and statutory guidance, which will set out a clear framework for the safe deployment of self-driving vehicles by 2025 to meet expected industry development and deployment timeframes. We anticipate two broad development routes for self-driving vehicles: vehicles that require a driver some of the time (as is the case for Automated Lane Keeping System) and may be privately owned; and vehicles that do not require a driver and may provide a public service. The safety framework will be developed to deal with both types of vehicles, and other potential future use cases as this innovative technology develops.”

Publication of the new section

5. We have previously raised concerns about long delays between amendments to the Highway Code taking effect and being published in hard copy. We are pleased to note that in the Explanatory Memorandum (EM) DfT says, as soon as the 40 days required by parliamentary procedure have expired, the online version of the Highway Code will be amended and the Driver and Vehicle Standards Agency will use its media channels to issue a press notice on the amendment. It also states that hard copies of The Highway Code are published on a six-monthly basis, with the next edition scheduled for the autumn, which will reflect this amendment. The delay is probably acceptable for this amendment because no self-driving cars are expected to be operational before then, **but we remind the DfT that we expect changes to the Code and its re-publication schedule to be more closely coordinated than they have been recently.**⁴

Safety

6. We were disappointed that the EM included little information on how the safety of these vehicles and their use will be assessed. In supplementary information, DfT informed us that:

“Both the Fédération Internationale de l’Automobile (FIA, representing the motoring clubs) and the European Transport Safety Council (ETSC) are active bodies at the United Nations Economic Commission for Europe (UNECE) expert group under which the ALKS Regulation was developed. At a domestic level, ROSPA, the RAC Foundation, the AA, IAM RoadSmart and ABI/Thatcham responded⁵ to our consultations on ALKS.”

7. We asked, when the car spots a problem and hands back control to the driver who has been watching television, what amount of reaction time would be

3 Law Commission, ‘Automated Vehicles’: <https://www.lawcom.gov.uk/project/automated-vehicles/> [accessed 17 May 2022].

4 SLSC, [8th Report](#) (Session 2019–21, HL Paper 40) and [12th Report](#) (Session 2019–21, HL Paper 130).

5 The Royal Society for the Prevention of Accidents, the Royal Automobile Club Foundation (the RAC’s research arm), the Automobile Association, the Institute of Advanced Motorists and the Association of British Insurers (ABI) and Thatcham Research.

allowed for the driver to assess the situation and take avoiding action. DfT responded:

“Self-driving vehicles are only considered to be such if the driver does not need to monitor the driving environment and if they are given sufficient time to safely regain control when requested. This will be tested on a case-by-case basis at vehicle approval. Research, including simulation, was conducted to establish the length of time necessary for a safe hand-over for ALKS (with and without some secondary activities, like watching videos on the infotainment screen) and reviewed during international negotiations of the ALKS Regulation.”

8. We also asked what assessment of the effects on other traffic had been made of a vehicle doing a maximum of 37 mph on a motorway, and whether the vehicle would have any distinguishing features to alert other road users, such as a sticker. DfT said:

“ALKS are designed to be active in slow-moving traffic on motorway-type roads (i.e., traffic jams) but the vehicle itself will still be capable of higher speeds when a human driver is in control. If traffic begins flowing at higher speeds than 37mph, the system is expected to prompt the driver to regain control and normal motorway driving would resume. In the future, we expect ALKS technology to develop so that it can control vehicles on motorways at higher speeds—an international regulation is currently in development for this.

The ALKS Regulation does not currently include a requirement for a distinguishing feature, but the issue is under active discussion at the UNECE (United Nations Economic Committee for Europe) as a broader set of requirements for self-driving vehicles are being developed, and the question is also being considered at a national level within our programme to develop the detailed domestic requirements that will be implemented following the Transport Bill.”

9. The new Highway Code section mentions that the driver must operate the car “*in line with the manufacturer’s instructions*” so we enquired whether there will be any training provided by the seller or manufacturer and whether any additional test will need to be passed before the driver of such a car can take it on the road. DfT replied:

“The Government has established the AV-Drive group of experts, involving industry, regulators and road safety organisations. This group is considering what information and resources will be provided to drivers to ensure self-driving vehicles are used safely once introduced on our roads. The group is developing a resource pack that will be used to communicate messages on the safe use of self-driving technologies clearly and effectively with users. Government is also working in partnership with Driver and Vehicle Standards Agency (DVSA), which is responsible for driver training, to update the official DVSA Guide to Driving. Although there are currently no additional tests that need to be passed before a driver can drive such a vehicle, government is considering what changes might need to be made to driver training and testing as the technology advances.”

Conclusion

10. **It is clear that this is a rapidly changing situation and the legislation is “a work in progress”, but at every future stage the House should be provided with clear evidence about the safety of each iteration both for the driver of the individual vehicle and for other road users.**

CORRESPONDENCE

Correspondence: Russia (Sanctions) (EU Exit) (Amendment No.8) Regulations 2022

11. In our 37th Report of Session 2021–22,⁶ we drew attention to the Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022, making the point that when legislation is passed through Parliament at speed, it is particularly important that the policy choices it implements are clearly explained.
12. On this occasion, the Explanatory Memorandum failed to give the rationale for setting a value threshold on the export of luxury goods, to explain why a list of goods was specified and to clarify what goods may still be exported. We therefore wrote to the Minister at the Foreign, Commonwealth and Development Office, Lord Ahmad of Wimbledon, who has responded with a full explanation which is published in Appendix 1. He explains that the restrictions mirror the sanctions set by the G7 and the EU. We welcome the Minister’s undertaking to ensure that a clear explanation of the policy underlying any future sanctions regulations is provided.

6 SLSC, [37th Report](#), (Session 2021–22, HL Paper 197).

INSTRUMENTS OF INTEREST

Draft Pharmacy (Responsible Pharmacists, Superintendent Pharmacists etc.) Order 2022

13. This Order aims to clarify the governance arrangements of registered pharmacies in law, specifically in relation to the two distinct roles of the Responsible Pharmacist and Superintendent Pharmacist, and then allow professional regulation to define the details of how those roles are fulfilled.
14. We note that several proposals were not popular with respondents to the consultation exercise⁷ on the grounds that they may reduce patient safety, particularly provisions allowing Superintendent Pharmacists to cover more than one firm and Responsible Pharmacists to cover more than one pharmacy or to operate remotely. We also note significant levels of distrust from the profession that the regulator, the General Pharmaceutical Council (GPhC), would be able to set standards and rules appropriately. We found the response of the Department of Health and Social Care (DHSC) to these concerns, as set out in the Explanatory Memorandum, unconvincing.
15. In supplementary material, DHSC told us that to counter the concerns the GPhC will be required to consult on any proposed rules, which will provide the profession with an opportunity for scrutiny and comment. In addition, any changes to professional rules made by the GPhC would need to be made by a statutory instrument following the negative resolution procedure in Parliament. This is more reassuring. And, of course, when such an instrument is laid before Parliament, this Committee will have an opportunity to comment on it and on the accompanying EM which, we trust, will provide a full explanation of how DHSC has addressed concerns from within the profession.

Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022 (SI 2022/477)

16. These Regulations require social media service providers (such as Facebook, Twitter or TikTok), internet access service providers (for example BT, Virgin, EE and Vodafone) and app store providers (such as Apple and Google Play) to take reasonable steps to prevent material from designated persons appearing on their service and to prevent UK users from accessing it. Ofcom have made clear that enforcement will be directed at these providers, rather than the designated persons.⁸ An email address has also been publicised for the public to inform Ofcom about any internet service being provided by designated persons: russiasanctions@ofcom.org.uk. On 3 May 2022 the Foreign Secretary designated TV Novosti (parent body of the Russian TV network RT) and Rossiya Segodnya (parent body of the Russian news agency Sputnik) and added them to the UK Sanctions website.⁹

7 Department of Health and Social Care, 'Rebalancing medicines legislation and pharmacy regulation programme: consultation outcome': <https://www.gov.uk/government/consultations/pharmacy-legislation-on-dispensing-errors-and-organisational-governance/outcome/rebalancing-medicines-legislation-and-pharmacy-regulation-programme-consultation-outcome> [accessed 18 May 2022].

8 The Office of Communications, *Open letter to industry about new restrictions on the provision of certain internet services to, or for the benefit of, "designated persons"* (4 May 2022): https://www.ofcom.org.uk/data/assets/pdf_file/0023/237218/open-letter-russia-sanctions.pdf [accessed 17 May 2022].

9 Foreign, Commonwealth and Development Office, 'The UK Sanctions List': <https://www.gov.uk/government/publications/the-uk-sanctions-list> [accessed 17 May 2022].

17. On 2 March 2022, the EU introduced its own sanctions against RT and Sputnik. The EU measure prohibits broadcasting as well as distribution of content online.¹⁰ The Foreign, Commonwealth and Development Office told us that while Ofcom may wish to discuss how the EU measures are being enforced with EU National Regulatory Authorities, the UK measures are able to operate and be enforced independently.

Genetically Modified Food and Feed (Authorisations) (England) Regulations 2022 (SI 2022/486)

18. The British feed industry has expressed concerns to the Department for Environment, Food and Rural Affairs about risks to certain supplies, particularly of maize, as a result of the conflict in Ukraine. In consequence this instrument authorises the importation and placing on the market of nine Genetically Modified Organisms (GMOs) for food and feed uses: four are new authorisations of maize, four are renewals of previous maize authorisations and one is a new authorisation of soybean. Equivalent legislation will be made in Wales and Scotland and the authorisations each last for 10 years.
19. All nine of these GMOs for food and feed uses have been authorised for use in the EU. The Food Standards Agency has independently reviewed the supporting documentation for the European authorisation and has concluded there are no concerns relating to the environment.¹¹ These GMOs are for import only and not for cultivation in the UK. This will be the first set of regulated GMO products to go through the national authorisation process since the UK left the EU.

Export Control (Amendment) Order 2022 (SI 2022/491)

20. This Order brings into force legal powers to control the export of certain goods, software or technology to countries which are subject to a UK embargo or an arms embargo imposed by the Organization for Security and Co-operation in Europe or the United Nations Security Council where the goods are not currently subject to export controls but may be intended for use by military forces, para-military forces, police forces or security or intelligence services. Licences will be required for such exports, and the Government will consider with respect to each licence application whether a proposed export will pose a threat to national or international security, international law or human rights.
21. According to the Department for International Trade, the goods that fall under the new control power may include, for example, surveillance equipment that can be used for internal repression purposes, or advanced computing equipment that can be used to enhance military research and intelligence gathering but that does not meet the required technical specifications of current export controls. The Order also adds China and its Special Administrative Regions (Hong Kong and Macao) to the list of countries that are embargoed destinations and subject to transit controls for military goods, thereby giving them the same status as other countries subject to an arms embargo.

10 European Union, *Official Journal of the European Union* (2 March 2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2022:065:FULL&from=EN> [accessed 17 May 2022].

11 Food Standards Agency, *FSA/FSS opinions of applications for nine genetically modified organisms for food and feed uses* (30 November 2021): <https://www.food.gov.uk/sites/default/files/media/document/FSA%20FSS%20Opinions.pdf> [accessed 17 May 2022].

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Draft	Passport (Fees) Regulations 2022
Draft	Pharmacy (Preparation and Dispensing Errors–Hospital and Other Pharmacy Services) Order 2022
Draft	Pharmacy (Responsible Pharmacists, Superintendent Pharmacists etc.) Order 2022
Draft	Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022
Draft	Public Procurement (International Trade Agreements) (Amendment) Regulations 2022

Made instruments subject to affirmative approval

SI 2022/477	Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022
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Instruments subject to annulment

SI 2022/460	Proscribed Organisations (Applications for Deproscription etc.) (Amendment) Regulations 2022
SI 2022/462	Terrorism Prevention and Investigation Measures (Polygraph) Regulations 2022
SI 2022/466	Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2022
SI 2022/467	Emissions Performance Standard (Amendment) Regulations 2022
SI 2022/481	Food Information (Amendment) (England) Regulations 2022
SI 2022/484	Phytosanitary Conditions (Amendment) (No. 2) Regulations 2022
SI 2022/486	Genetically Modified Food and Feed (Authorisations) (England) Regulations 2022
SI 2022/491	Export Control (Amendment) Order 2022
SI 2022/498	Sea Fisheries (Amendment) Regulations 2022
SI 2022/503	Child Support (Amendments Relating to Electronic Communications and Information) (England and Wales and Scotland) Regulations 2022

APPENDIX 1: CORRESPONDENCE: RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT NO.8) REGULATIONS 2022

Letter from Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee, to Lord Ahmad of Wimbledon, Minister of State for the Foreign, Commonwealth and Development Office.

I am writing to you in my capacity as Chair of the Secondary Legislation Scrutiny Committee. Yesterday, we considered the Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022. Although we were aware that they were being debated in Grand Committee at the same time as our meeting, we decided that we should publish an information paragraph about them in any event. I will ensure that your office receives a copy of our Report, containing the information paragraph, as soon as it is published.

While we, of course, fully understand the importance of the Regulations, our concern -as you will see -is about the quality of the explanation provided in the accompanying Explanatory Memorandum (EM). Given the speed at which this made affirmative instrument has passed through Parliament, it was, we believe, particularly important that the EM should set out a clear explanation of the policy, options considered and the reasons for the selection of the approach being implemented through these Regulations. We did not have sufficient information on the policy choices made and why they, as opposed to other options, were seen to be the most effective sanction.

I would be grateful for a response, including your assurances that any future sanctions instruments will be accompanied by a more comprehensive explanation of the policy.

27 April 2022

Letter from Lord Ahmad of Wimbledon to Lord Hodgson of Astley Abbotts

I'd like to thank the Noble Lords who participated in the Grand Committee Debate on Wednesday 27 April and the Secondary Legislation Scrutiny Committee (SLSC) for the update paragraph provided regarding the Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022 (SI 2022/452). The Government welcomes the continued support and scrutiny offered across this House as we continue to deliver the largest sanctions package against Vladimir Putin, his regime and those who support him in his abhorrent war.

The SLSC information paragraph noted a lack of detail provided in the accompanying explanatory memorandum provided alongside the Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022 (SI 2022/452), indicating 'a lack of clear explanation of the policy, options considered, and the reasons for the selection of approach being implemented through the regulations'. I will address these answers below and can assure the Committee and Noble Lords that the Government will endeavour to reflect this feedback in future regulations being delivered at pace in response to Putin's illegal invasion.

This package of sanctions feeds into the UK's overarching objectives to: constrain Russia through the disruption of industries critical to the Russian economy, and thus Putin's war machine; signal to Russia and the wider international community that territorial expansionism is unacceptable and will be met with a serious response; and coerce Russia through targeting longer-term economic interests and

affecting the everyday lives of Russian elites, influencing the Russian government to change their course of action.

The SLSC information paragraph focused in particular on the luxury goods measure and the rationale behind the threshold value of £250. Acting in concert with G7 partners (and the rest of the EU), the UK's luxury goods measure restricts the access that Russian elites have to certain 'western' consumer items. This applies to a subcategory of luxury consumer goods which are within scope above certain thresholds: this is designed to exclude goods that are used by non-elites from the sanctions regime.

With international coordination central to our sanctions approach, the luxury goods thresholds were aligned with those of the EU (€300), taking into account the conversion rate at the time and adjusting to a rounded figure (£250). In some instances, we deviated from the baseline threshold of £250 (or €300) where it was appropriate, in order to ensure that non-luxury items remained below the threshold. In line with this, for example, the threshold for domestic electronics was set at £630 as opposed to £250.

You also asked for justification on the decision to exempt ambulances from the luxury goods prohibition. You noted that these may have a potential military function and ought to be considered in the same vein as other dual-use items. I can confirm that ambulances are not included in the UK Strategic Export Control Lists, which includes goods considered to be dual use. The export to Russia of all dual use goods included in the UK Strategic Export Control Lists is prohibited, as per regulation 22 of the Russia (Sanctions) (EU Exit) Regulations 2019.

I am copying this letter to the Noble Lords who attended the Statutory Instrument Debate in Grand Committee on 27 April regarding the Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022 (SI 2022/452).

Thank you for your continued interest in this issue.

16 May 2022

APPENDIX 2: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 17 May 2022 and included in this report, Members declared no interests.

Attendance:

The meeting was attended by Lord German, Lord Hodgson of Astley Abbotts, Lord Hutton of Furness, the Earl of Lindsay, Lord Lisvane, Lord Powell of Bayswater and Lord Rowlands.