

EXPLANATORY MEMORANDUM TO

THE TRANSPORT AND WORKS (GUIDED TRANSPORT MODES) (AMENDMENT) ORDER 2022

2022 No. XXX

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 The draft instrument amends the Transport and Works (Guided Transport Modes) Order 1992 (S.I. 1992/2321) (“the 1992 Order”). Orders made under the Transport and Works Act 1992 (“the 1992 Act”) allows for the construction and operation of transport systems, including guided transport modes. Presently only physically guided modes of transport such as those guided by cables or tracks can be applied for and granted consent under the 1992 Act. This instrument will enable modes of transport guided by non-physical guidance systems using sensor technology to be applied for and be given consent under the 1992 Act.

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

5. European Convention on Human Rights

- 5.1 The Minister of State with responsibility for the future of transport at the Department for Transport, the Rt Hon Lucy Frazer KC MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Transport and Works (Guided Transport Modes) (Amendment) Order 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 1 of the 1992 Act allows orders to be granted in relation to the construction or operation of a transport system for one of the following transport systems – a railway; a tramway; a trolley vehicle system,; and a system using a mode of guided transport prescribed by an order made under section 2 of the 1992 Act. These guided transport modes are set out in the 1992 Order.

- 6.2 Article 2 of the 1992 Order sets out the prescribed modes of transport and article 3 defines each of the prescribed modes. The currently prescribed modes of guided transport are all guided through physical means such as tracks and cables.
- 6.3 This legislative change will amend article 2 and article 3 of the 1992 Order to prescribe non-physical modes of transport guided by sensor technology.

7. Policy background

What is being done and why?

- 7.1 An order made under section 1 of the 1992 Act is the usual way of authorising local transport schemes such as railways, tramways and guided busways in England and Wales.
- 7.2 Changes in technology means that transport can now be guided using sensor-based technology. Transport bodies are now actively considering the use of sensor-based guidance technology. This change to legislation will allow for consent under the 1992 Act for transport schemes such as guided busways using simple sensor-based guidance technology to direct a vehicle with a driver on board and in due course sensor technology to direct and drive vehicles (fully autonomous vehicles).

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

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

9. Consolidation

- 9.1 Whilst this instrument amends another instrument there is no plan to consolidate the relevant legislation.

10. Consultation outcome

- 10.1 The legislative change was subject to a six weeks consultation from 31st March 2022 to 12th May 2022. The consultation was posted on the Government website and councils, transport authorities, tram and bus companies and legal firms who forward applications for Transport and Works Act Orders were notified.
- 10.2 The consultation document can be found here - <https://www.gov.uk/government/consultations/allowing-non-physical-guided-transport-modes-to-be-authorised-by-a-transport-and-works-act-order/allowing-non-physical-guided-transport-modes-to-be-authorised-by-a-transport-and-works-act-order-consultation-document>. Sixteen responses were received and the Consultation Outcome can be found here - <https://www.gov.uk/government/consultations/allowing-non-physical-guided-transport-modes-to-be-authorised-by-a-transport-and-works-act-order/outcome/consultation-outcome-allowing-new-forms-of-guided-transport-modes-to-be-authorised-by-a-transport-and-works-act-order>.
- 10.3 15 of the 16 who responded supported the need for the change in legislation and all but one supported the specific change proposed. The Government is satisfied that the draft change proposed fully reflects technology available and currently on the market. There were a few comments regarding safety of this new technology. Safety is a matter that is outside the scope of this change, which relates to planning law. The

matter of safety of this new technology would be considered by other provisions that operate outside of the regime under the 1992 Act.

11. Guidance

- 11.1 No guidance is being produced for this legislative change as this is enabling legislation only.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the legislative changes are only enabling provisions that will allow future applications under the 1992 Act to include transport systems guided by sensor based technology. The change will not impose any direct obligations or costs on industry or business. Therefore an Impact Assessment was not required.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There is no formal periodic review of this statutory instrument. However, officials at the Department for Transport will continue to monitor changes in technology to ensure the any future technological developments on guided transport systems can be provided for in future changes to the 1992 Order.
- 14.2 The regulation does not include a statutory review clause.

15. Contact

- 15.1 Colin Dunn at the Department for Transport Telephone: 07971 145887 email: colin.dunn@dft.gov.uk can be contacted with any queries regarding the instrument. Natasha Koplala at the Department of Transport Telephone 07769 234115 email natasha.kopala@dft.gov.uk can also be contacted.
- 15.2 Martin Gilmour, Deputy Director for the Planning Transport and Housing Division at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Vere, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.