

EXPLANATORY MEMORANDUM TO
THE TRAFFIC SIGNS (CORONAVIRUS) (AMENDMENT) (ENGLAND)
REGULATIONS 2021

2021 No. 75

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes amendments which supplement the Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020 (S.I. 2020/663) (“the 2020 Regulations”), that came into force in July 2020, to enable trials of electric scooters (“e-scooters”) on public roads. This instrument makes additional amendments to the Traffic Signs Regulations 2016 (S.I. 2016/362) (“the 2016 Regulations”) to further refine the traffic sign and road marking requirements for e-scooter trials.
- 2.2 E-scooters fall within the definition of a “motor vehicle” in section 185(1) of the Road Traffic Act 1988. The 2020 Regulations removed or relaxed requirements for e-scooters being used in a trial, in a way that was proportionate to the vehicle type, to enable trials to take place on public roads. The 2020 Regulations amended the 2016 Regulations, to permit an e-scooter being used in a trial, to use cycle lanes, and to clarify that signs relating to pedal cycles also represent e-scooters.
- 2.3 This instrument refines further the application of the 2016 Regulations to e-scooters being used in a trial to clarify where e-scooters are permitted for use within defined trial areas.
- 2.4 It amends the definitions of a bus lane to explicitly add e-scooters as a type of vehicle permitted to use the lane.
- 2.5 The instrument also amends the definition of a cycle lane to permit a barrier to act as a marking for a cycle lane, in cases where a route would be a cycle track, but for an order under sections 9 or 14 of the Road Traffic Regulation Act 1984 (“traffic orders”) being in place for an e-scooter trial. The barrier must be one that was provided under section 4 of the Cycle Tracks Act 1984.
- 2.6 Other amendments have been made through the instrument to refine the application of road markings as they relate to a way which would be a cycle track but for a traffic order being in place, and also to distinguish how some signs apply to solo motor-cycles and separately to e-scooters.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.

- 4.2 The territorial application of this instrument is England only.

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 The instrument has been made using powers found in the Road Traffic Regulation Act 1984 (“the 1984 Act”). The instrument makes amendments to the 2016 Regulations. The provisions in the instrument refine the legal requirements of the 2016 Regulations with regard to e-scooter trials, particularly as this relates to a way which would be a cycle track, but for a traffic order being in place for e-scooter trials. The definition of a relevant traffic order, is set out in Schedule 1 of the 2016 Regulations under the heading “temporary statutory provision” at (a), as being “a provision having effect under section 9 or section 14 of the 1984 Act or under a provision referred to in section 66 of that Act”.

- 6.2 E-scooters fall within the definition of a ‘solo motor-cycle’ (as defined in Schedule 1 to the 2016 Regulations, with motor-cycle defined in section 136(4) of the 1984 Act). The instrument makes amendments to distinguish, where required, e-scooters from other solo motor-cycles.

- 6.3 The definition of a bus lane in Schedule 1 of the 2020 Regulations, does permit e-scooters to use this road space, under the umbrella of ‘solo motor-cycles’. However, the instrument at regulation 2(2)(a) specifically names e-scooters being used in trials, as a vehicle type that is permitted to use bus lanes, as, in many cases, solo motor-cycles are excluded from using bus lanes by local highway authorities. It makes clear that the symbol for pedal cycles on a bus lane sign also represents e-scooters being used in trials.

- 6.4 The instrument at regulation 2(2)(b) makes an amendment to the definition of a cycle lane, found in Schedule 1 of the 2016 Regulations. This amendment applies to e-scooter trials only and widens the definition to lanes separated by a barrier. This applies to a way that would be a cycle track but for a traffic order, that also runs adjacent to a carriageway. The barrier is one which was provided in compliance with section 4 of the Cycle Tracks Act 1984. This will enable a cycle track, with a barrier separating it from the rest of the road, to be converted into a cycle lane, without the need for painted road markings to signify that the way is a cycle lane. The 2020 Regulations permitted e-scooters being used in trials to use cycle lanes.

- 6.5 This amendment will only apply to those cycle tracks with a traffic order in place for the purpose of e-scooter trials.

- 6.6 Regulation 2(3) amends Schedule 3, Part 2, at items 12 and 20 of the 2016 Regulations to exempt e-scooters from the types of vehicle prohibited access by these signs.
- 6.7 The amendments found at Regulation 2(4) and (15) are made to the description of the ‘exception’ plates to clarify that where the word ‘cycles’ is used on an ‘exception’ plate this also represents e-scooters used in trials. The ‘exception’ plates are displayed alongside another sign to indicate the classes of vehicle excluded from the restrictions or prohibitions conveyed by the associated sign.
- 6.8 The amendments found at Regulation 2(5), (6) and (7) clarify that the signs indicating parking areas for solo motor-cycles do not apply to e-scooters.
- 6.9 Regulation 2(8) amends Schedule 8, Part 2, at item 2 to clarify that e-scooters used in trials are permitted to enter pedestrian and cycle zones, access to which is restricted for other motor vehicles including solo motor-cycles.
- 6.10 Regulation 2(9) makes amendments to Schedule 9, Part 4, at item 10 to include e-scooters in the list of vehicles that are permitted to use a bus lane.
- 6.11 Regulation 2(10) amends Schedule 11, Part 2 in three places at items 35, 37 and 41. The items 35 and 41 are subject to the permitted variants under Part 5 of the Schedule, which allows the wording used on these signs to be altered from ‘lane/s’ to ‘track/s’. The amendment to the description in item 35, extends the application of this sign to a way that would be a cycle track, but for a traffic order in place, for scooters used in trials only. An amendment is also made to item 37 to add e-scooters to the list of vehicles permitted to use a bus lane and to clarify that the pedal cycle symbol represents e-scooters used in trials. At item 41, the provision amends the description for the types of road the sign can be used for, to include the permitted variant ‘cycle tracks’, and a way that would be a cycle track, but for a traffic order in place for e-scooter trials.
- 6.12 Regulation 2(11) amends Schedule 11, Part 2 in three places. At item 35, the provision extends the application of this sign to a way that would be a cycle track, but for a traffic order being in place for e-scooter trials. An amendment is also made to item 37 to add e-scooters to the list of vehicles permitted to use a bus lane and to clarify that the pedal cycle symbol represents e-scooters used in trials. At item 41, the provision amends the types of road the sign can be used for, to include cycle tracks and a way that would be a cycle track, but for a traffic order in place for e-scooter trials.
- 6.13 Regulation 2(12) amends Schedule 11, Part 4, at item 9 to include a way that would be a cycle track, but for a traffic order being in place for e-scooter trials, to the types of road that specific markings apply to when at a junction with a carriageway, and also at items 28, 30 and 32, to amend the application of the markings displayed in these items.
- 6.14 Regulation 2(13) amends Schedule 12, Part 20, at items 23 and 31 to exempt e-scooters from the types of vehicle prohibited access by these signs.
- 6.15 Regulation 2(14) amends Schedule 14, Part 1, paragraph 25 to include a way that would be a cycle track, but for a traffic order being in place for e-scooter trials, to the types of road that are exempt from the marking requirements for controlled crossings and yellow globes at controlled crossings.

- 6.16 This instrument applies only to e-scooters used as part of a trial arranged between a rental operator and a local public authority. It does not extend to privately-owned e-scooters or other e-scooters not participating in organised trials.

7. Policy background

What is being done and why?

- 7.1 The Department is considering whether to legalise micromobility vehicles and, if so, what rules should apply to them. These innovations have the potential to deliver significant benefits if carefully managed. However, there are also risks with introducing new types of vehicle into existing transport networks.
- 7.2 There is little robust data on the impact of micromobility vehicles. To address this, trials of rental e-scooters were planned by the Department to take place in 2021.
- 7.3 As a response to the pandemic, trials of e-scooters were brought forward in order to: relieve pressure on public transport; offer a new socially distanced form of transport; and support local areas in the green restart of transport.
- 7.4 Legislation was needed to allow trials to begin, but given the trials were in response to a pandemic, the urgent timescales meant it was not possible to amend primary legislation. The 2020 Regulations allowed trials of e-scooters to begin.
- 7.5 The 2020 Regulations amended the definition of a cycle lane, to permit e-scooters to share this type of road space. It was not possible to amend the definition of a cycle track by regulations. Many local areas taking part in the trials have sought to permit e-scooters to share cycle track road space, by use of traffic order powers found in the 1984 Act.
- 7.6 The amendments made by this instrument, refine the road marking requirements for road space, which would be a cycle track, but for a traffic order in place for e-scooter trials. To amend a cycle track to comply with carriageway markings is a costly, time consuming and counter-productive exercise when the space is still used in a similar way to a cycle track and for temporary trials.
- 7.7 The amendments made by this instrument to the 2016 Regulations are necessary to clarify, for all e-scooter trial areas, the marking requirements when a traffic order is in place for the purposes of e-scooter trials. They remove the burden and expense of additional road markings and signing, and they enable a more proportionate application of the 2016 Regulations to e-scooter trials.
- 7.8 Additional amendments have been made to refine the definitions, for trials, of bus lanes and cycle lanes.
- 7.9 E-scooters fall within the definition of a ‘solo motor-cycle’. The instrument distinguishes how some signs apply to e-scooters, as opposed to other solo-motor-cycles.
- 7.10 These amendments will apply during the e-scooter trials which will end on 30th November 2021, or until the date the trials are further extended to, until a decision is made on future legislation. The Department intends to review evidence collected during the trials to inform any future policy decisions about the long-term use of e-scooters and other types of micromobility.

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/trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The trials are time limited through use of administrative orders. The orders may be extended until such time as decisions are made to inform future legislation around e-scooters and other micromobility vehicles. It is expected that such legislation will amend or revoke this instrument, so consolidation is not appropriate with this instrument.

10. Consultation outcome

- 10.1 These amendments apply only in e-scooter trial areas, for the duration of the trials, and are deregulatory in nature by removing the disproportionate burden and expense of additional road markings for temporary trials when the road space will be used in a similar way to how it is used when classified as a ‘cycle track’.
- 10.2 It was therefore appropriate to hold a short, targeted consultation. This took place in December 2020. A consultation document, including the amendments and explanatory text, was circulated to all local areas hosting live e-scooter trials, or planning to host them. A conference call was held with these areas to explain the proposed changes and answer any questions before the local areas made a formal response. The deadline for responses was 22nd December 2020.
- 10.3 The majority of those consulted were supportive of the amendments being made. Only a few local areas provided specific feedback on the draft regulations and this was taken on board. The draft instrument was amended to clarify that parking places for motorcycles, including those on roads designated as red routes, cannot be used by e-scooters being used in a trial. As e-scooters are technically a type of solo motor-cycle, this change is needed to avoid opening up solo motor-cycle parking places to e-scooters. The application of road markings used on cycle tracks, to indicate a junction with another road, the presence of a cycle route, or provide direction, has been extended to cycle tracks that have been re-designated using a traffic order as part of an e-scooter trial. Finally, e-scooters have been made exempt from the types of vehicle prohibited access by signs that may be incorporated within advanced direction signs.
- 10.4 The changes apply to England only, but the Scottish and Welsh governments were also consulted on the draft instrument as per sections 134(3A) and (3B) of the 1984 Act.

11. Guidance

- 11.1 Guidance was published on the Department’s website to help e-scooter users and local authorities understand what rules apply to them. The guidance will be updated to include this amendment. Hard copies can be obtained upon request at the contact details provided for in paragraph 15.
- 11.2 The guidance is available at: <https://www.gov.uk/government/publications/e-scooter-trials-guidance-for-local-areas-and-rental-operators/e-scooter-trials-guidance-for-local-areas-and-rental-operators>.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector. The instrument is deregulatory in nature, for local authorities running e-scooter rental operations as part of the trials, by removing the burden and expense of additional road markings and signing for temporary trials.
- 12.3 An Impact Assessment has not been prepared for this instrument because it is not imposing a regulatory burden nor a change in existing public policy, which is to allow time limited trials of rental e-scooters in local areas across the country to build evidence to inform future policy.
- 12.4 The Department has conducted a rapid analytical assessment for the 2020 Regulations, the regulations this instrument amends. A full impact assessment will be completed following full implementation of trials, and prior to the end of June 2021.

13. Regulating small business

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

14. Monitoring & review

- 14.1 The Department will be running a monitoring and evaluation programme for the e-scooter trials. These will seek to gather evidence of the safety risks presented by e-scooters, the mode shift resulting from their use and public perceptions around their use.
- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Parliamentary Under Secretary of State, Rachel Maclean MP has made the following statement.
- 14.3 “Having had regard to sections 28 to 32 of the Small Business Enterprise and Employment Act 2015 and the Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that it is not appropriate to make provision for review in this instrument as these regulations will be reviewed separately by a monitoring and evaluation programme for the trials. These regulations enable the trials of e-scooters, the evidence from which will inform future legislation around e-scooters and other micromobility vehicles. It is expected that such legislation will amend or revoke this instrument.”

15. Contact

- 15.1 James Padden at the Department for Transport, (telephone: 07825 421267, email: james.padden@dft.gov.uk or micromobility@dft.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Anthony Ferguson, Deputy Director for Traffic and Technology Division, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rachel Maclean MP, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.