

# AUTOMATED AND ELECTRIC VEHICLES BILL

## SUPPLEMENTARY DELEGATED POWERS MEMORANDUM BY THE DEPARTMENT FOR TRANSPORT

1. The Government has tabled further amendments to the Automated and Electric Vehicles Bill in advance of Lords Report stage due to take place on 5 June 2018. These include two amendments which modify existing delegated powers in the Bill. This supplementary memorandum explains the nature of the modifications to existing powers and the reasons for these.

### **Amendment to clause 9 of the Bill: Power for the Secretary of State to prescribe standards for the performance and reliability of public charging points**

*Power conferred on: Secretary of State*

*Power exercised by: Regulations*

*Parliamentary Procedure: Affirmative resolution for first instrument, and negative resolution for any subsequent instrument*

#### Context and Purpose

2. The Government has introduced an amendment to clause 9 to enable regulations to impose obligations on operators in connection with the performance and reliability of charge points.
3. Regulations would be able to ensure standards of reliability and maintenance through setting out standards of performance, such as the number of hours a public charging point can be left in non-working order or the frequency for checking public charging points as part of the maintenance of them.
4. This will ensure that the public charging point network functions effectively. A functioning and reliable charging point network is essential to consumer confidence.

#### Justification for delegation

5. Evidence cited by the RAC Foundation suggests that around 1 in 8 public chargepoints can be inactive at a given time in the UK. There is a risk that when public charging points are installed and usage is low, operators are less likely to repair them. Having a significant number of public charging points out of action greatly impacts the user experience. However, as the market develops and payment for charging becomes the norm, this is likely to lead to improved reliability as operators will wish to entice users onto their network. We will need to examine how public charging point reliability develops in order to determine whether it would be appropriate to make regulations.

### Justification for procedure

6. The Department considers that it is important for Parliament to debate the initial provision made, so the affirmative resolution procedure will apply to the first exercise of the power. However, any further exercise of the power is likely to only be an update to the initial provision, and so it is considered that the lesser form of scrutiny offered by the negative resolution procedure will be appropriate in such a case.

### **New clause after clause 10 of the Bill: Power for the Secretary of State to have duty to make regulations on request of Metro Mayors and Mayor of London**

*Power conferred on: Secretary of State*

*Power exercised by: Regulations*

*Parliamentary Procedure: Affirmative resolution for first instrument, and negative resolution for any subsequent instrument*

### Context and Purpose

7. Clause 10 confers power on the Secretary of State to require that large fuel retailers and service area operators have on their premises sufficient infrastructure for charging electric vehicles. A shortage of public charging points has been raised as a barrier to use/purchase by existing and prospective electric vehicle drivers. The purpose of this provision is to ensure there are a sufficient number of public charging points and hydrogen refuelling stations (collectively “public charging points”) across the UK, enabling drivers of electric vehicles to make long journeys without fear of breaking down.
8. The Government has introduced an amendment to this clause whereby the Mayor of London and Metro Mayors would be entitled to request that the Secretary of State make regulations in relation to the provision of public charging points within the relevant Mayor’s area of authority. The Secretary of State would then be obliged to consider the request.
9. The Mayor would be required to publish the proposal and undertake consultation before making the request. The Secretary of State would also have a power to specify in Regulations additional criteria with which the Mayor would have to comply before making a request.
10. The purpose of the provision is to give the Mayor of London and Metro Mayors the ability, subject to the safeguards referred to above, to tailor the provision of public charging points to the requirements of their local area.

### Justification for delegation

11. Cities and local regions have a hugely important role to play in defining and delivering environmental strategies, and have to deal with the local challenge of poor air quality. Provision of electric vehicle charging and hydrogen refuelling

infrastructure will be a very important part of all of these strategies. These powers would give Mayors an additional lever to help them deliver this locally and potentially enable them to go further and faster than action nationally to bring forward greater improvements in air quality. This could have a significant impact on improving air quality right across the UK, potentially in the most problematic regional areas.

Justification for procedure

12. The Department considers that it is important for Parliament to debate the initial provision made under clause 10, so the affirmative resolution procedure will apply in respect of the first exercise of the power. However, any further exercise of the power is expected to raise similar issues to the first such exercise. In addition, there are other safeguards built into this provision (as described above). However, it is still important that Parliament has oversight of this so any subsequent regulations will be subject to the negative resolution procedure.

**Department for Transport**

**29 May 2018**