



LOGISTICS | AUGUST 2023

REMOTE DRIVING – THE FUTURE BECOMING REALITY?

In February 2023, the Law Commission set out its advice to the UK Government on remote driving (the "Report"). The Report considers the current law surrounding situations where a person outside of a vehicle uses wireless connectivity to control a vehicle on a public road (or "remote driving" for the purposes of this briefing).

This follows on from a joint report published in January 2022 by the Law Commission and the Scottish Law Commission. This is discussed in our earlier briefing which is available [here](#).

The January 2022 report focused on automated driving and the use of automated vehicles. This current Report focused on remote driving which has areas of overlap but also has its own unique challenges as we will see.

The Report recognises that remote driving on public roads has been very limited to date. However, its use is set to expand – namely as an adjunct to automated driving (which we discussed in our briefing on the January 2022 report) and in the specific circumstances around delivery of rental vehicles. Further in the future, we may see remote driving in the form of taxis, consumer delivery services (such as couriers and e-commerce) and potentially even larger scale goods deliveries in the more distant future.

The Report sets out a number of matters to be addressed in order for an organisation to put remotely driven vehicles on the road safely, including the adequacy of the communication network, risk mitigation systems and cybersecurity.

Current law on remote driving

Currently, there is no express legal requirement for a driver to be within the vehicle being driven and there is no express prohibition on remote driving. There are therefore uncertainties and gaps in the current law which the stakeholders who were consulted as part of the Report found unsatisfactory.

One of the main issues identified is the lack of corporate accountability, or organisational responsibility, for remote driving safety. Under the current law, the remote driver themselves is the person primarily responsible and who could face criminal liability. Some aspects of safety are beyond an individual's control, for example adequate breaks and connectivity, and the Report sets out a number of proposals around regulation of the organisations that operate remotely driven vehicles.

What is a remote driver?

The Report proposes a legal definition of a 'driver', including the requirement that the driver must be an individual (i.e. a human). A driver is an individual who performs any or all of: (a) steering; (b) braking or accelerating; (c) monitoring the driving environment.

An important distinction is between remote driving and remote assistance. The Commission accepts that it may be difficult to decide whether at any given moment "assistance" to a self-driving system crosses the line to become remote driving. The Report therefore concluded that a victim's compensation should not depend on whether an automated driving system, remote driver or a physical driver in the vehicle were in charge at any given moment.

However, the distinction will be important in terms of criminal liability as that of a driver is more extensive than that of a remote assistant. The Report also recognises that organisational responsibility will be important and there is a need for robust sanctions on organisations if things go wrong. Safety should be seen as a corporate responsibility.

Remote driving from abroad

It was suggested that permitting remote drivers to control vehicles from countries outside of the UK would be a way for businesses to cut costs. The Report found a number of potential issues in this respect, including a greater sense of detachment, technical limitations, difficulties ensuring compliance with rules (such as adequate breaks) and difficulties in enforcing criminal prosecutions. The Report therefore suggested legislation to make it illegal to drive a vehicle remotely from a place outside the territory to which the legislation relates.

Licensing

The Report proposes a system of Vehicle Special Orders ("VSOs") which would be granted to permit the carriage of goods and delivery of vehicles on a case-by-case basis. This would be a short-term solution whilst robust regulation is developed in the form of a No User-in-Charge Operator ("NUICO") and an Entity for Remote Driving Operation ("ERDO") as explained below.

The long-term solution proposed by the Report is that organisations that use remotely driven vehicles should be either a licensed NUICO or a licensed ERDO.

The Report concludes that it, "should be an offence to drive (or cause or permit a person to drive) a vehicle beyond line-of-sight, on a road or other public place, unless the vehicle is overseen by a licensed ERDO or NUICO."

The distinction between a NUICO and ERDO

NUICO licences will be available where an organisation has oversight of vehicles with authorised no user-in-charge features (i.e. automated vehicles). NUICOs are something touched upon in the January 2022 report mentioned above, which concluded that the legal responsibility for overseeing the journey would rest with the NUICO. This aligns with the conclusion in this Report – that NUICOs should be responsible for the self-driving aspects of their operations and for any remote driving they conduct.

An ERDO licence would be for organisations that operate remotely driven vehicles but do not operate vehicles with any authorised self-driving features.

Both organisations that are NUICO and /or ERDO licensed should be regulated companies and there should be legislation to give the regulator powers to decide: (a) which duties and responsibilities should apply to the regulated body; (b) the licencing conditions; and (c) which regulatory sanctions should be imposed on ERDOs / NUICOs.

The same regulator should administer the NUICO and ERDO licensing schemes.

What does this mean for logistics companies?

The Report recommends a short-term measure to prohibit remote driving as standard, with an exemption procedure using VSOs. In time, frameworks will be developed in the form of NUICO and ERDO regulation and licencing schemes.

Stakeholders drew the distinction between high-risk motorway driving and lower risk, slower suburban driving. Road haulage companies typically transport the majority of goods on motorways for the majority of the journeys. Given the lack of a clear answer of whether remote driving is sufficiently safe to be permitted on the roads, it is unlikely we will see remotely driven trucks of up to 44 tonnes on British motorways anytime soon.

However, remote driving may be closer to reality for smaller vehicles and courier deliveries as opposed to road haulage. For now, the law and any developments should be kept under review as law makers seek to bring regulations and legislation up to date with technological developments.

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