



Department for Transport

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Dear David,

Thank you again for your work scrutinising the secondary legislation produced by the Department for Transport. As I have set out in correspondence and in the House, secondary legislation is a matter of the utmost importance to me. We have worked hard over the past year to improve our processes and upskill officials, and will continue to do so with renewed effort in the new parliamentary term and beyond.

The Department and the Maritime and Coastguard Agency are on track to clear the backlog of maritime legislation by the end of this year. I am very aware, however, that there are other pieces of secondary legislation which have taken longer to develop than might be expected. I exchanged correspondence with you and your predecessor as Chair, Lord Hodgson, on one such statutory instrument – The Merchant Shipping (Watercraft) Order 2023 – earlier this year.

With this in mind, I wanted to alert you to the forthcoming laying of two statutory instruments where the policy development and drafting process has taken longer than we originally expected. While we have never committed to a deadline for laying these statutory instruments and have received no pressure from stakeholders to do so, I would like to assure you that the delays, while unfortunate, are explicable and I am confident that my officials have delivered the legislation as quickly as they could, given their complex technical nature, the need to ensure the legislation is fit for purpose and pressures arising from EU Exit and the COVID-19 pandemic. Nevertheless, I thought it helpful to explain the delays fully to you in advance of laying the statutory instruments.

The first piece of legislation is the **Private Crossings (Signs and Barriers) Regulations**. These bring into effect updates to instructional safety signs placed at private level crossings, of which there are around 3,000 on the UK rail network. We expect to lay them shortly after conference recess.

The Regulations respond to recommendations made by the Rail Accident Investigation Branch (RAIB) into incidents at private level crossings. This is a complex and safety-critical area, and it is right that we take the appropriate amount

of time to conduct research, engage stakeholders and test new signage. We have worked proactively since the RAIB first raised this issue, including funding the Railway Safety and Standards Board (RSSB) to undertake two pieces of research into signage at private crossings, consulting twice, and testing the new signage in both simulated and real-world settings. We have worked closely with the RSSB, Network Rail and the independent Office of Rail and Road throughout.

We did, however, have to divert resources away from this work as a result of Operation Yellowhammer and then the Covid-19 pandemic. This decision was not taken lightly but was necessary at the time, and I am confident that it was the right one.

I should also note that we intend to lay further Regulations next year to prescribe these signs in the Welsh language, at private crossings in Wales where risk assessments identify that they are needed.

The second piece of legislation is the **Air Navigation (Overseas Territories) (Environmental Standards) Order**. The Order will do three things. Firstly, it will address errors identified by the Joint Committee on Statutory Instruments in the Air Navigation (Overseas Territories) (Environmental Standards) Order 2014. Secondly, it will enable legislation to be extended to Anguilla and the Pitcairn Islands, to which the 2014 Order was not applicable. Thirdly, it will update references to Annex 16 to the Chicago Convention, implementing new standards and recommended practices which have been agreed by the parties to the Convention since the 2014 Order was laid.

Work on this Order had to be deprioritised in 2019 and 2020 due to EU Exit and the COVID-19 pandemic. We decided to do this because the Order will make limited practical changes and it does not relate to safety or security, which are always our priority. Furthermore, we considered it preferable to group multiple legislative changes into one Order, rather than deliver legislative reform in a piecemeal fashion, which would be inefficient for both officials and parliamentarians, and unnecessarily complicate the statute book. We expect to lay this Order next year, to allow sufficient time for policy and legal review of the standards which it will implement.

I hope this update is helpful and I would be happy to answer any questions you have about these instruments. I will place a copy of this letter in the Library of the House.

Yours,
Charlotte

BARONESS VERE OF NORBITON