SCOTTISH STATUTORY INSTRUMENTS

2012 No. 147

ROAD TRAFFIC

The M9/A90/M90 Trunk Road (Kirkliston to Halbeath) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012

Made - - - -	*16th May 2012*
Laid before the Scottish Parliament - - - -	*18th May 2012*
Coming into force - -	*1st September 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 17(2) and (3) of the Road Traffic Regulation Act 1984(**1**) and all other powers enabling them to do so.

In accordance with section 134(2)(**2**) of that Act they have consulted with such representative organisations as they think fit.

Citation and commencement

1. These Regulations may be cited as the M9/A90/M90 Trunk Road (Kirkliston to Halbeath) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 and come into force on 1st September 2012.

Interpretation

2. In these Regulations—

"the 1995 Regulations" means the Motorways Traffic (Scotland) Regulations 1995(**3**);

"relevant road" means the road known as the M9/A90/M90 Edinburgh to Fraserburgh Trunk Road from Kirkliston at Humbie Rail Bridge to Halbeath.

(**1**) 1984 c.27. Section 17(2) is amended by the New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraph 28, by the Road Traffic Act 1991 (c.40), Schedule 4, paragraph 25 and Schedule 8, paragraph 1 and by the National Parks (Scotland) Act 2000 (asp 10), Schedule 5, paragraph 11. The functions of the Secretary of State were transferred to the Scottish Ministers by S.I. 1999/1750, article 2 and Schedule 1.

(**2**) Section 134(2) is amended by the New Roads and Street Works Act 1991, Schedule 8, paragraph 77.

(**3**) S.I. 1995/2507 amended by S.I. 1995/3070, S.I. 1996/2664, S.S.I. 2004/3261, S.S.I. 2005/344, S.S.I. 2006/129 and S.I. 2006/594.

Variable speed limits

3.—(1) A person must not drive a vehicle on a section of any of the specified lengths of the relevant road to which a variable speed limit applies at a speed exceeding the applicable variable speed limit.

(2) The section of the specified lengths of the relevant road to which a variable speed limit applies is the section of the road—

(a) beginning immediately after a relevant speed limit sign indicating a maximum speed limit other than the national speed limit; and

(b) ending immediately after—

(i) a relevant speed limit sign indicating that another maximum speed limit applies; or

(ii) traffic signs mounted on the same post bearing the words "Variable Speed Limit" and "Ends".

(3) The applicable variable speed limit is the maximum speed limit indicated by the relevant speed limit sign referred to in paragraph (2)(a)—

(a) when the vehicle passed that sign; or

(b) if higher, the maximum speed limit indicated by that sign ten seconds before the vehicle passed it.

(4) For the purposes of this regulation the relevant speed limit sign is to be taken as not indicating any maximum speed limit if, ten seconds before the vehicle passed it, the sign had not indicated any maximum speed limit.

(5) In this regulation—

"hard shoulder" means a part of the road which is adjacent to and situated on the left hand side of the carriageway, when facing in the direction in which vehicles may be driven in accordance with regulation 5 of the 1995 Regulations, and which is designed to take the weight of a vehicle;

"national speed limit" means any prohibition imposed on a road by regulation 3 of the Motorways Traffic (Speed Limit) Regulations 1974(**4**);

"relevant speed limit sign" means a traffic sign of the type shown in diagram 670 in Schedule 2 to the Traffic Signs Regulations and General Directions 2002(**5**) which is—

(a) displayed on a variable message sign which is situated over, on or near any part of a specified length of the relevant road; and

(b) directed at traffic, on the specified length of road being driven in accordance with regulation 5 of the 1995 Regulations;

"road" includes the adjacent hard shoulder;

"specified lengths of the relevant road" means any of the lengths of the relevant road specified in the Schedule to these Regulations.

Application of 1995 Regulations to the relevant road

4. In relation to the relevant road the 1995 Regulations apply as if they had been modified as follows—

(a) in regulation 2(1) (interpretation) as if—

(i) in the appropriate places, there were inserted—

(**4**) S.I. 1974/502.

(**5**) S.I. 2002/3113 as amended by S.I. 2003/393, 2004/12752005/1670, 2006/2083, 2008/2177, 2011/1040 and 2011/3041.

““the 2002 Regulations” means the Traffic Signs Regulations and General Directions 2002(**6**);”

““actively managed hard shoulder” means the lengths of hard shoulder of the relevant road specified in Schedule 2;”

““emergency refuge area” means a part of the relevant road which is—

(a) adjacent to and situated on the left hand or near side of the actively managed hard shoulder when facing the direction in which vehicles may be driven in accordance with regulation 5; and

(b) indicated by a marking of the type shown in diagram 1010 in Schedule 6 to the 2002 Regulations;”

““permitted vehicle” means a motor vehicle constructed or adapted to carry more than 23 seated passengers (exclusive of the driver);”

““relevant road” means the road known as the M9/A90/M90 Edinburgh to Fraserburgh Trunk Road from Kirkliston at Humbie Rail Bridge to Halbeath;”;

(ii) in the definition of “carriageway” after the second occurrence of “motorway” there was inserted “(other than the actively managed hard shoulder)”;

(iii) in the definition of “hard shoulder” after “vehicle” there was inserted “(and includes the actively managed hard shoulder);

(b) in regulation 6(2), (3)(a) and (b) (restriction on stopping) as if, in each place where it occurs, for “or in an emergency layby” there was substituted “, in an emergency layby, or emergency refuge area”;

(c) as if for regulation 8 (restriction on the use of hard shoulders or emergency laybys) there was substituted—

“**8. Restriction on the use of hard shoulders, emergency laybys or emergency refuge areas**

No vehicle may be driven, moved or stopped or remain at rest on any hard shoulder, emergency layby or emergency refuge area except in accordance with regulations 6(2) and (3), 8A and 8B.

8A. Use of the actively managed hard shoulder

(1) A permitted vehicle may drive on the actively managed hard shoulder as if it were a lane of the carriageway.

(2) Paragraph (1) does not apply when on a gantry directly above the actively managed hard shoulder there is displayed a traffic sign of the type shown in diagram 5003 or 5003.1 in Schedule 10 to, or diagram 6031 in Schedule 11 to, the 2002 Regulations.

(3) Paragraph (2) does not apply to a permitted vehicle which is being driven on the actively managed hard shoulder when any of the traffic signs mentioned in paragraph (2) is displayed until that vehicle passes a gantry displaying one of those signs.

(4) When paragraph (1) applies the actively managed hard shoulder is to be regarded, in relation to a permitted vehicle, as part of the carriageway of the relevant road for the purposes of these Regulations.

(5) Nothing in this regulation affects or prevents the use by any vehicle of the actively managed hard shoulder as a hard shoulder in accordance with regulation 6(2) and (3).

(**6**) S.I. 2002/3113 as relevantly amended by S.I. 2005/1670.

8B. Use of emergency refuge area on actively managed hard shoulder

(1) When regulation 8A(1) applies, any vehicle using or intending to use the actively managed hard shoulder for the purposes of a hard shoulder in accordance with regulation 6(2) must comply with paragraph (2).

(2) The vehicle must as soon and insofar as reasonably practicable and safe, be driven or moved off the actively managed hard shoulder on to an emergency refuge area.

(3) A vehicle at rest on the emergency refuge area must so far as is reasonably practicable be positioned so that no part of it, or of the load carried by it, obstructs or is a cause of danger to vehicles using the actively managed hard shoulder.";

(d) in regulation 12 (restriction affecting animals carried in vehicles) as if after "emergency layby" there was inserted ", emergency refuge area"; and

(e) as if after the Schedule there was inserted—

"SCHEDULE 2 Regulation 2(1)

THE ACTIVELY MANAGED HARD SHOULDER OF THE RELEVANT ROAD

1. The lengths of hard shoulder of the southbound carriageway from the point where the southbound on-slip merges with the southbound carriageway at Junction 2a Halbeath Interchange southwards to the point where the southbound on-slip merges with that carriageway at Junction 1 Admiralty Interchange.

2. In this Schedule—

(a) a junction followed by a number is a reference to the junction of the M90 of that number;

(b) "the M90" means the motorway known by that name;

(c) "on-slip" means a slip road intended for the use of traffic entering the M90.".

St Andrew's House,
Edinburgh
16th May 2012

KEITH BROWN
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 3(5)

LENGTHS OF THE RELEVANT ROAD ON WHICH A VARIABLE SPEED LIMIT MAY BE APPLIED

1. The southbound carriageway from a point 180 metres or thereby north of the point where the southbound off-slip at Junction 3 Halbeath diverges from the southbound carriageway to the point where the southbound on-slip merges with the southbound carriageway at Junction 1 Admiralty Interchange.

2. The northbound carriageway from the point where the northbound on-slip merges with the northbound carriageway at Junction 1 Admiralty Interchange to a point 100 metres or thereby north of the point where the northbound on-slip merges with the northbound carriageway at Junction 2 Masterton Interchange.

3. The southbound off-slip connecting the southbound carriageway to the roundabout at Junction 3 Halbeath.

4. The southbound on-slip connecting the A92 with the southbound carriageway at Junction 2a Halbeath Interchange.

5. The southbound off-slip connecting the southbound carriageway to the roundabout at Junction 1 Admiralty Interchange.

6. The northbound on-slip connecting the roundabout at Junction 1 Admiralty Interchange to the northbound carriageway.

7. The southbound carriageway from its junction with the A90 at Scotstoun Junction to the point where it crosses Humbie Rail Bridge at Kirkliston.

8. The northbound carriageway from the point where it crosses Humbie Rail Bridge at Kirkliston to its junction with the A90 at Scotstoun Junction.

9. In this Schedule—

(a) a junction followed by a number is a reference to the junction of the M90 of that number;

(b) the letter “A” followed by a number is a reference to the road known by that name;

(c) “the M90” means the motorway known by that name;

(d) “motorway” has the same meaning as in the 1995 Regulations;

(e) “off-slip” means a slip road intended for the use of traffic exiting the M90;

(f) “on-slip” means a slip road intended for the use of traffic entering the M90.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for variable speed limits on various sections of the road known as the M9/A90/M90 Edinburgh to Fraserburgh Trunk Road from Kirkliston at Humbie Rail Bridge to Halbeath (“the relevant road”).

Regulation 3 provides for variable speed limits to have effect on the sections of the relevant road specified in the Schedule. Where variable speed limit signs are in operation a vehicle may not be driven at a speed above the maximum indicated by each speed limit sign passed by the vehicle. Where a speed limit sign changes 10 seconds or less before a vehicle passes the sign and the sign had indicated a higher speed limit, the regulation allows a driver to proceed at a speed up to the maximum applicable before the change. Where the speed limit sign indicates a speed limit when it is passed by the vehicle but 10 seconds before it was not showing any speed limit the sign is to be taken as not indicating any speed limit to that vehicle. In this instance the variable speed limit provisions will not apply and the default maximum speed will be 70 miles per hour as provided for by the Motorways Traffic (Speed Limit) Regulations 1974.

The Regulations also apply the Motorways Traffic (Scotland) Regulations 1995 ("the 1995 Regulations") to the relevant road as if they have been modified to provide for "an actively managed hard shoulder", which is a hard shoulder which in certain circumstances may be driven on. The Regulations provide that the only vehicles permitted to drive on the actively managed hard shoulder are motor vehicles constructed or adapted to carry more than 23 seated passengers (exclusive of the driver) (see regulation 4).

In relation to the relevant road regulation 4 has the effect of substituting for the current regulation 8 of the 1995 Regulations new regulations 8, 8A and 8B. New regulation 8A provides that sections of the hard shoulder set out in Schedule 2 (provided by regulation 4(e) of these Regulations) may be used as a carriageway by permitted vehicles unless a traffic sign of the type shown in diagram 5003, 5003.1 or 6031 (various forms of red crosses) are displayed on the overhead gantry above it.

New regulation 8B provides that where the hard shoulder is being used as a carriageway by the permitted vehicles any vehicle using it or intending to use it for the purposes of a hard shoulder should, as soon as and insofar as reasonably practicable and safe, move off the actively managed hard shoulder and on to one of the emergency refuge areas provided.

Contravention of the Regulations is an offence under section 17(4) of the Road Traffic Regulation Act 1984.