

**EXPLANATORY MEMORANDUM TO
THE ROAD TRAFFIC EXEMPTIONS (SPECIAL FORCES) (VARIATION AND
AMENDMENT) REGULATIONS 2011**

[2011] No. 935

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

The purpose of this instrument is to provide Special Forces with exemptions from speed limits and certain other road traffic requirements for the purpose of responding, or making preparations for their ability to respond, to a national security emergency.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative context

4.1 The Road Traffic Regulation Act 1984 (RTRA) makes general provisions for the regulation of traffic. Part 6 (sections 81 to 91) of the RTRA contains a number of provisions concerned with the setting of speed limits. Sections 14 and 16A of the RTRA provide for the making of temporary restrictions and prohibitions on road use by the Secretary of State and by local traffic authorities which can include the imposition of speed limits.

4.2 Section 87 of the RTRA provides that vehicles used for emergency service purposes (i.e. police, fire, ambulance and Serious Organised Crime Agency) are exempt from speed limits if staying within those limits will compromise emergency response times.

4.3 Section 64 of the RTRA provides powers to make regulations relating to traffic signs including the Traffic Signs Regulations and General Directions 2002 (TSRGD). The TSRGD exempt the police, fire and ambulance services and the Serious Organised Crime Agency from having to comply with the requirements denoted by keep left/right signs, double white lines, zig zag lines at pedestrian crossings, bus stops, clearways and box junctions.

4.4 Section 64 of the RTRA also provides powers to make regulations relating to pedestrian crossings. The Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 exempt the police, fire and ambulance services and the

Serious Organised Crime Agency from having to comply with vehicular signals at pedestrian crossings.

4.5 The Road Vehicles Lighting Regulations 1989 permit certain vehicles to be fitted with flashing headlamps and blue beacon lights or warning lights whilst the Road Vehicles (Construction and Use) Regulations 1986 permit the fitting to certain vehicles, and the use, of two tone sirens. Again, the police, fire and ambulance services and Serious Organised Crime Agency have powers to fit and use these devices on their vehicles.

4.6 The exemptions that are in place for the emergency services have not to date been applied to the Special Forces who deal with national security emergencies.

5. Territorial extent and application

5.1 This instrument applies to Great Britain, except for regulation 3.

5.2 Regulation 3 contains regulations to affect the future making of speed limit provision under sections 14 (orders and notices), 16A (orders) and 84(1)(c) (orders) of the RTRA. Legislative competence to impose speed limits under those provisions has been devolved to the Welsh ministers for roads in Wales and, under section 14 or 84(1)(c), to Scottish ministers for roads in Scotland. Regulation 3 therefore applies in full only to England, and, in part, to England and Scotland.

5.3 The Department is liaising with the Scottish Government and Welsh Assembly Government about the appropriate way forward in relation to this exemption and future speed limit orders in Scotland and Wales.

6. European Convention on Human Rights

6.1 Mike Penning, has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 Currently vehicles used for police, fire and rescue and ambulance service and Serious Organised Crime Agency purposes are exempt from speed limits if those limits hinder the vehicle in the course of its business. These organisations have internal policies to determine exactly what those purposes might be, but in general terms drivers will only be able to exceed speed limits where there is a threat to life or limb. The provision of these exemptions does not allow the emergency services to freely exceed speed limits and drivers can still be prosecuted for careless or dangerous driving if it is considered their driving behaviour warrants such action.

7.2 To assist their effectiveness in responding to some current and potential issues related to national security, Special Forces should be afforded the same exemptions as those provided to the emergency services in order to respond as quickly as possible to a major incident. This is important for a number of circumstances including when a police escort is not available.

7.3 Section 19 of the Road Safety Act 2006 will, when commenced, provide the Secretary of State with powers to extend speed limit exemptions to other purposes for which a vehicle is used. However this legislation is unlikely to come into force until October 2011 at the earliest, the Department's intention being to introduce it in late 2011 or early 2012.

7.4 Commencing the powers contained in Section 19 of the Road Safety Act 2006 could have significant implications for the exemptions from speed limits the emergency services have now. This is because Section 19 would introduce fresh provisions related to how the training courses for high speed drivers must operate. It will also be important to consider whether exemptions should be extended to a wider range of vehicles (such as vehicles which are not ambulances but are carrying donor organs for transplants). Some more time is needed for the proper consideration of these issues.

7.5 However there is an urgent, current need to exempt Special Forces under certain circumstances from speed limits and certain other road traffic regulations. This is due to the heightened threat to national security and the need to ensure Special Forces can deploy personnel and equipment rapidly. The intention is that this statutory instrument would be revoked when Section 19 is commenced and accompanying provision is made.

7.6 The statutory instrument places certain restrictions on Special Forces. Only those drivers who have been, or are being, trained may exceed speed limits. They may only use the exemption when being trained in driving, undertaking an exercise or responding to a threat to national security.

- Consolidation

7.7 Consolidation is not considered appropriate in so far as statutory provisions are being varied. Regarding the amendments to the Road Vehicles Lighting Regulations 1989, the Road Vehicles (Construction and Use) Regulations 1986, the Zebra, Pelican and Puffin Pedestrian Crossings Regulations 1997 and the Traffic Signs Regulations 2002 the Department has no current plans to consolidate these regulations in view of the resources that would need to be devoted to doing so.

8. Consultation outcome

8.1 The Department for Transport has consulted formally with a number of organisations representing the police, Special Forces themselves and general motoring and road safety interests (in the latter case by consulting the Royal Society for the Prevention of Accident's national road safety committee). It has also consulted with the

devolved Scottish and Welsh administrations. There has previously been a working group operating to consider exemptions in the broader context of the implementation of Section 19 of the Road Safety Act 2006.

8.2 The eight responses received were generally supportive. Some underlined the need to confine the exemption to drivers with adequate training. The Department is satisfied that the statutory instrument does this. It has been assured that the drivers involved have all been trained by police trainers and the intention is that the further driver training would be delivered by the police.

8.3 A number of responses highlighted the importance of related administrative procedures, such as maintaining driver standards after drivers had passed the original courses. The Department is satisfied that related procedures are in place or will be implemented when the statutory instrument is in place.

8.4 One response highlighted the importance of ensuring exemptions are in place for vehicles subject to vehicle-specific speed limits. The Department investigated further and is satisfied this statutory instrument and previous regulations provide for this.

9. Guidance

9.1 The Department has held several meetings with representatives from the armed forces to discuss the integrity of their internal policy. The Department is satisfied that only appropriately trained drivers will exceed speed limits and then only in responding to, or whilst practising in responding to, threats to national security and that untrained drivers will only exceed speed limits whilst being trained to drive at high speeds.”

9.2 The Department will write to English local traffic authorities to inform them how this Statutory Instrument affects future speed limit orders and is liaising with the devolved administrations about the position in Scotland and Wales.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The monitoring will be proportionate to the scale of the exemption and therefore is likely to be limited in scope. It will focus on any collisions related to these vehicles in the short term. Monitoring plans will be reviewed if powers to commence Section 19 of the Road Safety Act 2006 are not commenced by 2012.

13. Contact

Duncan Price at the Department for Transport Tel: 020 7944 2058 or email: duncan.price@dft.gsi.gov.uk can answer any queries regarding the instrument.