

EXPLANATORY MEMORANDUM TO

THE M62 MOTORWAY (JUNCTIONS 25 TO 30) (ACTIVELY MANAGED HARD SHOULDER AND VARIABLE SPEED LIMITS) REGULATIONS 2012

2012 No. 1865

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 These Regulations enable the operation of variable speed limits and hard shoulder running on the M62 motorway between junctions 25 and 30 (“the M62 Scheme”).

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

3.1 In its forty-third Report of Session 2010–12 published on 20th March 2012, the Joint Committee on Statutory Instruments reported regulation 3(2) of the M25 Motorway (Junctions 2 to 3) (Variable Speed Limits) Regulations 2012 (SI 2012/104) for defective drafting. The Committee accepted that the intention of the regulation was as stated by the Department but considered that a literal reading of regulation 3(2)(c) did not achieve it.

The Department believes a court would give effect to the policy intention. Regulation 3(2) refers to a vehicle being driven on a section of road. On a motorway this necessarily contemplates forward motion. As explained in the Department’s earlier memorandum to the Committee, the phrase “section of road” is not a reference to any particular fixed geographical section. The prohibition in regulation 3(1) relates to a section of road along which a vehicle is being driven at any particular time. The “section” can in effect be regarded as moving forward with the vehicle; it requires no definition. On this reading the wording in regulation 3(2)(c)(i) causes no difficulty.

In its fifth Report of Session 2012-13 published on 4th July 2012, the Joint Committee on Statutory Instruments reported the M1 Motorway (Junctions 10 to 13) (Actively Managed Hard Shoulder and Variable Speed Limits) Regulations 2012 (SI 2012/985), which contained the same wording as SI 2012/104, for requiring elucidation. The Department is continuing to consider the Committee’s comments on SI 2012/104 in an effort to reach a settled and legally robust form of drafting.

Identical wording to that in regulation 3(2) of SI 2012/104 and regulation 4(2) of SI 2012/985 is used in regulation 4(2) of the Regulations. The Department will continue to reflect on the comments made by the Committee. However, the Department wishes to make the Regulations now in order to enable the overall project programme of the scheme to be maintained. Bearing that in mind along with the long established use of the wording in question and the views expressed above, the Department has decided for the moment to leave the provision as drafted.

4. **Legislative Context**

4.1 These Regulations have been made under sections 17(2) and (3) of the Road Traffic Regulation Act 1984, which empowers the Secretary of State to make regulations with respect to the use of special roads generally and, as in this case, with respect to particular lengths of motorway. These Regulations allow for the operation and enforcement of variable mandatory speed limits and hard shoulder running in relation to the specified roads set out in the Schedules to these Regulations.

4.2 Section 134(2) of the Road Traffic Regulation Act 1984 requires the Secretary of State to consult with representative organisations as she sees fit prior to making regulations under that Act.

4.3 The Traffic Signs Regulations and General Directions 2002 (S.I 2002/3113), as amended, enable certain traffic signs to be used to convey information about variable mandatory speed limits on motorways.

4.4 In addition, traffic signs authorised by the Secretary of State under section 64 of the Road Traffic Regulation Act 1984 placed on or near the specified roads set out in the Schedule to these Regulations will indicate to drivers that vehicles are entering, have entered or are exiting a road covered by these Regulations.

4.5 The Motorways Traffic (England and Wales) Regulations 1981 (S.I. 1982/1163) are modified by the Regulations to permit the hard shoulder to be used as a carriageway where a speed limit sign is displayed and to make provision for emergency refuge areas.

5. Territorial Extent and Application

5.1 These Regulations apply to England. Only those sections of motorway specified in the Schedules to these Regulations will be affected, all of which are based in England.

6. European Convention on Human Rights

6.1 As these Regulations are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

• *What is being done and why*

7.1 The Highways Agency is developing its role as Network Operator through a series of traffic management, network control and other measures with the aim of:

- achieving best use of existing road space;
- responding more quickly to incidents and reducing clear-up times; and
- reducing congestion and improving the reliability of journey times.

7.2 The use of variable mandatory speed limits and implementing hard shoulder running is an essential element in achieving these aims.

7.3 The M62 provides the strategic Trans-Pennine east west route across the north of England, connecting Merseyside, Lancashire and Manchester to Yorkshire and the Humber. It also forms part of Euroroute 22 between Dublin and Russia. On a local scale the route connects Bradford and Leeds, both of which are important commercial centres.

7.4 The route carries up to 140,000 vehicles per day, up to 22% of which are Heavy Goods Vehicles. The route has steep slopes in places, with some approaching 3%. This climb can give rise to slow moving vehicles, especially heavy vehicles, as they struggle to gain speed up the slope.

7.5 This section of the M62 is already under severe traffic pressure and suffers from congestion, increasing business costs and reducing mobility. Action is required to improve and maintain traffic flows, and hence productivity, in the area. The M62 Scheme will introduce traffic control and signalling to enable proactive management of the motorway network adjacent to the conurbations of Bradford and Leeds. The project aims to ensure there is a sustainable balance

between wider economic growth, social inclusion and environmental objectives, and could potentially benefit the economy as a whole.

7.6 The M62 Scheme aims to deliver a number of benefits, including:

- Reduce congestion;
- Provide more reliable journey times;
- Reduce the severity of accidents;
- Increase and improve the quality of information for the driver;
- Maintain current safety levels for road workers;
- Reduce driver stress;
- Reduce overall noise emissions; and
- Reduce vehicle emissions and improve overall air quality.

8. Consultation outcome

8.1 The consultation period on the M62 Scheme commenced on 15th July 2011 and concluded on 6th October 2011 (12 week period).

8.2 The consultation encouraged representative organisations, businesses and members of the public to communicate their views to the Highways Agency. In total, 11 responses were received; 3 of which were nil returns with no comments. Of the respondents who made comment, 7 were for the proposal and 1 was against. Those who responded in favour include the Freight Transport Association, the Road Haulage Association, 3 local councils, representatives of small to medium sized businesses in the area and a member of the general public. One member of the public responded against the scheme.

8.3 Some of the respondents in favour of the scheme raised the following issues:

- The ability to spot debris in the hard shoulder in bad weather prior to opening the hard shoulder;
- The possibility of debris being flung into the hard shoulder after it has been opened;
- Air quality;
- DEFRA low emission zones;
- No requirement for a statutory Environmental Impact Assessment;
- Education of road users in use of managed motorway and driver behaviour;
- Signing of Bradford from junction 27 westbound;
- Signing of local venues from motorway;
- Responsibility for speed enforcement;
- Switch off of motorway lighting;
- Slip road interaction at junction 25;
- Disruption from roadworks during scheme construction; and
- Highways Agency's customer complaints procedure.

8.4 The Department for Transport's response is summarised as follows:

- The hard shoulder monitoring and CCTV cameras that will be installed as part of the M62 Scheme are specified to work in adverse weather conditions and low light. There is a designed procedure which is followed prior to directing traffic to use the hard shoulder to ensure it is free of obstacles.
- It is possible that debris could be flung into any lane. If an obstruction is identified the managed motorway technology can be used to sign any lane as closed in order to protect

- An Environmental Assessment Report has been carried out for the scheme in accordance with the Design Manual of Road and Bridges requirements. The assessment determined that the M62 Scheme did not worsen Air Quality issues overall.
- The Department for Transport have had discussions with the Department for the Environment, Farming and Rural Affairs regarding Low Emission Zones (LEZs) and the Department for Transport will be aware of the assessment and appraisal outcomes of the M62 Scheme to help inform those discussions.
- The production of an Environmental Statement in accordance with the requirements of the Highways Act 1980 is considered unnecessary.
- The M62 Scheme has a communications strategy in place that is applied across all managed motorways schemes. Research was commissioned in summer 2010 to determine customers' perceptions, awareness and experiences of managed motorways and was published in November 2010. The report indicates a high level of acceptance of managed motorways. Respondents stated that managed motorways are 'self evident' and an 'iterative' experience, the driver learns about them as they drive on them.
- We will amend signs from the M62 to direct traffic via the M606 and not A650. Signs on the M621 directing traffic via the A650 will not be changed to the M606 as part of this scheme. This will be picked up at a later time when the signs are due to be changed.
- We have written to affected local venues and have informed them that visitor signs from the M62 Junction 25 to Junction 30 are to be removed.
- Enforcement is carried out by the West Yorkshire Police Safety Camera Partnership who act as the Fixed Penalty Office. At the FPO, the offending drivers are identified and appropriate action taken, using powers defined in the Road Traffic Offenders Act 1988.
- The Highways Agency currently has no proposals to switch off the street lighting on the M62 between Junctions 25 and 30.
- There will be no change to the circulatory carriageway layout at Junction 25.
- Three lanes of the motorway will be kept open in each direction during peak times throughout construction. Speed and lane restrictions will be applied. Certain works will require us to close lanes, slip roads and the motorway. In order to keep disruption to a minimum these will take place outside of peak periods and at night. Closures will commence at 8pm and be lifted by 6am the following morning. Any slip road or motorway closures will be agreed in advance with local police and other stakeholders and will be publicised well in advance.
- The Highways Agency has a formal complaints procedure, which is detailed on our website <http://www.highways.gov.uk/customer/25230.aspx>.

8.5 The respondent who opposed the scheme objected on the basis that it was unsafe to operate a motorway without a hard shoulder, even where emergency refuge areas were provided. The member of the public also commented that hard shoulder running and variable speed limits were being proposed on cost grounds and that the motorway should be widened instead.

8.6 The Department for Transport's response is summarised as follows:

- The recently published three-year safety report on the M42 managed motorway pilot scheme, shows that accidents more than halved since hard shoulder running was introduced on 10.5 miles of M42 (J3a to J7), to the east of Birmingham. There was also an overall reduction in the severity of accidents with zero fatalities and fewer seriously injured.

- In total, five options to improve this section of the M62 were identified and assessed, including a comparison of conventional widening with the new managed motorway techniques. The assessment concluded that implementing managed motorways on the M62 would provide the highest benefit to cost ratio and would deliver similar benefits to the widening option whilst being significantly more affordable.

8.7 A more detailed analysis of the consultation outcome and report, including responses to the issues raised by all consultees, has been published on the Highways Agency website at <http://www.highways.gov.uk/roads/31734.aspx> . Those who responded to the consultation have been sent a copy of the consultation response report.

8.8 The Department for Transport has considered all the responses to the consultation and carried out an analysis of those responses. Taking into consideration the demonstrable proven benefits of the M42, Birmingham Box and M25 schemes the Department has decided that hard shoulder running and variable speed limits should be implemented on the M62 between junction 25 and junction 30.

8.9 The consultation identified no requirement to make changes to the Impact Assessment.

9. Guidance

9.1 The consultation pack issued by the Highways Agency to stakeholders on 15th July 2011 contained information on the operation of variable mandatory speed limits and hard shoulder running on the M62 between junctions 25 and 30. This consultation pack and a copy of the responses to the consultation report is published on the Highways Agency website. Stakeholders include members of the emergency services, road user groups, road operators, local authorities and vehicle recovery operators. Stakeholders will continue to receive updates and news on the scheme implementation, with particular consideration given to the affects of the scheme on local residents, the travelling public and businesses, through the Highways Agency website, media and press releases.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that variable speed limits and hard shoulder running will benefit the motorist by helping to reduce congestion and provide more reliable journey times. It aims to reduce the severity of accidents, increase and improve the quality of driver information, and reduce driver stress.

10.2 The impact on the public sector is the same as the impact on business, charities or voluntary bodies identified in 10.1 above.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 The M62 scheme will not have an adverse effect on small businesses. The Regulations do not impose any new or increased burden. The Highways Agency will continue to provide targeted information on the scheme to organisations within the surrounding area, including small businesses.

12. Monitoring & review

12.1 The costs and benefits of the M62 J25 to J30 Managed Motorway scheme will be monitored and reviewed through the design, implementation and construction of the scheme.

12.2 The operation of the variable mandatory speed limits and hard shoulder running scheme will be monitored and assessed to establish the effectiveness of the scheme's primary objectives of reducing the cost of congestion and reducing journey times. There will be a Post Opening Project Evaluation of the scheme one year and five years after it has opened. The purpose of the evaluation is to measure the business case aims and benefits of the scheme against what it is actually delivering one and five years after opening.

13. Contact

13.1 If you have any queries regarding the Regulations please contact **David Pilsworth** at the Highways Agency (Tel: 0113 2836483 or e-mail: david.pilsworth@highways.gsi.gov.uk).