

**EXPLANATORY MEMORANDUM TO**  
**THE MOTORWAYS TRAFFIC (SCOTLAND) (AMENDMENT) REGULATIONS**  
**2018**

**2018 No. 225 (S. 3)**

**1. Introduction**

- 1.1 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**

- 2.1 This instrument removes a restriction to allow learner drivers to have lessons on motorways, provided that they are accompanied by an approved driving instructor in a dual controlled car.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The primary legislation governing the use of motorways (referred to as “special roads”) is the Road Traffic Regulation Act 1984 (hereafter “RTRA”). Section 17(4) makes it an offence to use a motorway in contravention of the RTRA or any regulations made under it.
- 4.2 The Motorways Traffic (Scotland) Regulations 1995 (SI 1995/2507) prohibit learner drivers from driving on motorways. This instrument amends these regulations so that learner drivers may drive on a motorway when they are accompanied by an approved driving instructor in a dual controlled car.

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is Scotland.
- 5.2 The territorial application of this instrument is Scotland.
- 5.3 The same policy is being implemented for England and Wales by the Motorways Traffic (England and Wales) (Amendment) Regulations 2018.

**6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 The Government published its road safety statement "Working Together to Build a Safer Road System" in December 2015. That statement sets out the context of road safety in Britain and the overarching scope of road safety activity for the Government.
- 7.2 A number of proposals were announced in the Statement, including legislative changes to allow approved driving instructors with dual controlled cars to offer lessons on motorways to learner drivers if they wish to do so.
- 7.3 Younger drivers are around 5 to 7 times more likely to be killed or seriously injured compared with car drivers aged 25 or over. More and varied practice can help drivers to be safer on the roads. Learner drivers are currently prohibited from driving on motorways. Post-test training is available but uptake is low. The changes to legislation will encourage learner drivers to gain a broader range of driving experiences prior to obtaining their driving licence.

### *Consolidation*

- 7.4 There are no plans to consolidate the Motorway Traffic (Scotland) Regulations 1995 at this time.

## **8. Consultation outcome**

- 8.1 A consultation was issued to the general public and ran from December 2016 to February 2017. The consultation document and the Government's response to the consultation are published at <https://www.gov.uk/government/consultations/allowing-learner-drivers-to-have-driving-lessons-on-motorways> and can be requested in hard copy from the Department of Transport, see section 13.
- 8.2 The consultation on allowing learner drivers to take lessons on motorways closed on 17th February 2017 with nearly 3,000 responses. There was strong support for the proposal that learner drivers should be allowed to take lessons on the motorway when accompanied by an approved driving instructor, with 80% of all respondents agreeing with this. The other 20% of respondents opposed the proposal. A recurring view was that motorway lessons should take place after the learner driver has passed their practical test. Uptake of post-test motorway lessons is very low and on balance the Government has decided that it is better for a driver to experience motorway driving for the first time in the company of an approved driving instructor, as a learner, rather than potentially alone as a novice driver. The aim of these regulations is to help support that shift.
- 8.3 Views were also sought on the use of dual controlled cars to be used in the pre-test instruction of learner drivers on the motorway. Again, a majority (80%) of all responses were in agreement. Some thought that dual controls were not necessary but on balance the Government felt this would provide additional reassurance that the approved driving instructor could stop or slow the car in an emergency.

## **9. Guidance**

- 9.1 The Government is not issuing specific Guidance in relation to this instrument but has worked with national approved driving instructor stakeholders to make guidance available to approved driving instructors and their pupils ahead of the implementation

date. This is accessible via <http://n-a-s-p.co.uk/best-practice/4593863424> and is available in hard copy by contacting the Department for Transport, see section 13. Updates to Rule 253 of the Highway Code will be available online at <https://www.gov.uk/guidance/the-highway-code/motorways-253-to-273> immediately before this instrument comes into force. The Government also intends to raise public awareness of the changes through publicity campaigns.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is minimal. There will be no added burden on business resulting from this change. The main business sector affected (approved driving instructors) is under no obligation to provide lessons on motorways to learner drivers, and can choose not to offer such lessons following the change. In some areas the change is expected to have no impact because approved driving instructors operating in these areas are not sufficiently close to a motorways to make it feasible to provide motorway lessons. Some respondents to the public consultation thought there would be additional costs to approved driving instructors in terms of increased vehicle wear and tear, on the other hand, other respondents thought there would be benefits from improved fuel efficiency. On balance, we do not expect approved driving instructors to opt to provide lessons unless they were to at least break even. The measure is therefore most likely to be cost neutral with any costs or benefits falling well below £5m, in any one year. In general, any increased costs which may arise can be passed on through higher lesson costs and this was considered to be justified by the wider road safety benefits.
- 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**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses the provision of motorways lessons to learner drivers is optional and at the approved driving instructor's discretion.

## **12. Monitoring & review**

- 12.1 Jesse Norman MP, Parliamentary Under Secretary of State for the Department for Transport, has made the following statement:
- 12.2 “Having had regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 and the Statutory Guidance under s.31 of that Act, I have decided that it is not appropriate to make provision for review of this instrument because it would be disproportionate taking into account the economic impact of the regulations. The regulations enable approved driving instructors to give learner drivers the opportunity of driving on a motorway under supervision. The measure is not compulsory and approved driving instructors have the choice not to provide lessons on motorways. The measure does not create or impose any new regulatory regime for businesses to comply with.”

### **13. Contact**

- 13.1 Mandy Jutsum at the Department for Transport, Telephone: 020 7944 2025 or email: [mandy.jutsum@dft.gsi.gov.uk](mailto:mandy.jutsum@dft.gsi.gov.uk) can answer any queries regarding the instrument.