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STATUTORY INSTRUMENTS

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**2004 No. 3258**

**ROAD TRAFFIC**

**The Motorways Traffic (England and  
Wales) (Amendment) Regulations 2004**

*Made* - - - - *9th December 2004*  
*Laid before Parliament* *10th December 2004*  
*Coming into force* - - *1st January 2005*

The Secretary of State for Transport, in exercise of the powers conferred by section 17(2) and (3) of the Road Traffic Regulation Act 1984(1), and after consulting with representative organisations in accordance with section 134(2) of that Act, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Motorways Traffic (England and Wales) (Amendment) Regulations 2004 and shall come into force on 1st January 2005.

**Preliminary**

2. The Motorways Traffic (England and Wales) Regulations 1982(2) shall be further amended in accordance with the following provisions of these Regulations.

**Interpretation**

3. In regulation 3(1), after sub-paragraph (f) insert—

“(ff) “traffic officer” means an individual designated as such by, or under an authority given by, the Secretary of State or the National Assembly for Wales in accordance with section 2 of the Traffic Management Act 2004(3);”.

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(1) 1984 c. 27. Section 17(2) was amended by the New Roads and Street Works Act 1991 (c. 22), schedule 8, paragraph 28 and by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 25. The functions of the Secretary of State under section 17(2) and (3), except with respect to special roads generally, so far as exercisable in relation to Wales, are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.  
(2) S.I. 1982/1163; relevant amending instruments are S.I. 1983/374, 1984/1479, 1992/ 1364 and 1995/158.  
(3) 2004 c. 18.

#### **Amendments relating to use of right hand or off side lane**

4.—(1) Regulation 12 shall be amended as follows.

(2) In paragraph (1)—

(a) after sub-paragraph (a) insert—

“(aa) a goods vehicle—

(i) having a maximum laden weight exceeding 3.5 tonnes but not exceeding 7.5 tonnes, and

(ii) to which regulation 36B of the Road Vehicles (Construction and Use) Regulations 1986(4) applies or would apply but for paragraph (14)(a) or (b) of that regulation;”;

(b) after sub-paragraph (b) insert—

“(bb) a passenger vehicle—

(i) which is constructed or adapted to carry more than eight seated passengers in addition to the driver the maximum laden weight of which does not exceed 7.5 tonnes, and

(ii) to which regulation 36A of the Road Vehicles (Construction and Use) Regulations 1986 (Speed limiters) applies or would apply but for paragraph (13)(a) or (b) of that regulation;”.

#### **Amendments relating to exceptions and relaxations**

5.—(1) Regulation 16 shall be amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a), after “uniform” insert “, a traffic officer in uniform(5)”;

(b) in sub-paragraph (b), after “given by” insert “a traffic officer in uniform or”; and

(c) in sub-paragraph (d), after “constable” insert “, a traffic officer, when in uniform,”.

Signed by authority of the Secretary of State for Transport

9th December 2004

*David Jamieson*  
Parliamentary Under Secretary of State,  
Department for Transport

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(4) S.I. 1986/1078; relevant amending instruments are S.I. 1988/271, 1991/1527, 1993/3048, 1994/329, 1995/1458, 1996/2064, 1997/1340, 2003/1946 and 2004/2102.

(5) Section 11 of the Traffic Management Act 2004(c. 18) provides that the Secretary of State or, as the case may be, the National Assembly for Wales shall determine the uniform for traffic officers designated by, or under an authorisation given by, each of them.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Motorways Traffic (England and Wales) Regulations 1982 (“the 1982 Regulations”).

Regulation 12 of the 1982 Regulations prohibits certain classes of vehicle from using the right hand or off side lane of a motorway carriageway which has three or more lanes at any place where all the lanes are open for use by traffic proceeding in the same direction.

Regulation 12(1)(aa) is inserted so that a goods vehicle having a maximum laden weight exceeding 3.5 tonnes but not exceeding 7.5 tonnes and to which regulation 36B of the Construction and Use Regulations 1986 (“the 1986 Regulations”) applies, or would apply but for paragraph (14)(a) or (b) of that regulation, is a prohibited vehicle for the purpose of regulation 12.

Regulation 12(1)(bb) is inserted so that a passenger vehicle which is constructed or adapted to carry eight or more seated passengers in addition to the driver, the maximum laden weight of which does not exceed 7.5 tonnes and to which regulation 36A of the 1986 Regulations applies, or would apply but for regulation (13)(a) or (b) of that regulation, is also a prohibited vehicle for the purpose of regulation 12.

The effect of these amendments is to widen the range of both goods vehicles and passenger carrying vehicles prohibited from using the right hand or off side lane of a motorway carriageway which has three or more lanes at any place where all the lanes are open for use, based on whether or not a vehicle is required to be fitted with a speed limiter. The prohibition applies regardless of whether a vehicle is—

- (a) being taken to a place where a speed limiter is to be installed, calibrated, repaired or replaced; or
- (b) completing a journey in the course of which the speed limiter has accidentally ceased to function.

Regulation 16 of the 1982 Regulations provides exceptions and relaxations in relation to the use of a motorway.

Regulation 16(1)(a), (b) and (d) are amended so that a person is not precluded from using a motorway, otherwise than in accordance with the provisions of the 1982 Regulations, where—

- (a) he does so in accordance with any direction or permission given by a traffic officer in uniform;
- (b) in accordance with any permission given by a traffic officer in uniform, he does so for the purpose of investigating any accident which has occurred on or near a motorway; or
- (c) he does so in the exercise of his duty as a traffic officer, when in uniform.

A regulatory impact assessment has not been produced for this instrument as it has no significant impact on business, charities or voluntary bodies. Regulatory impact assessments were published in relation to the Traffic Management Act 2004 in respect of traffic officers and as part of the public consultation on Directive [2002/85/EC](#) of the European Parliament and of the Council (OJNo. L57, 4.12.2002, p.327), which amends Council Directive [92/6/EC](#) on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ No. L57, 2.3.1992, p.27). The amending Directive is being implemented by way of the Road Vehicles (Construction and Use) (Amendment) (No.2) Regulations 2004 (S.I. [2004/2102](#)) which come into force on 1st January 2005.

**Status:** *This is the original version (as it was originally made).*