EXPLANATORY MEMORANDUM TO

THE M1 MOTORWAY (JUNCTIONS 10 TO 13) (ACTIVELY MANAGED HARD SHOULDER AND VARIABLE SPEED LIMITS) REGULATIONS 2012

2012 No. 985

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 The Regulations will restrict drivers on the roads to which the Regulations apply from driving at a speed exceeding that displayed on the speed limit signs or the national speed limit where no other speed limit sign is displayed. The Regulations will allow the hard shoulder to be used as a running lane in certain circumstances. The roads to which the Regulations apply are on the M1 Motorway between junctions 10 and 13 and are more fully described in the Schedule to the Regulations.

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 20 March 2012, the Joint Committee on Statutory Instruments reported regulation 3(2) of the M25 Motorway (Junctions 2 to 3) (Variable Speed Limits) Regulations (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.

Identical wording to that in regulation 3(2) above is used in regulation 4(2) of the Regulations. The Department will continue to reflect on the comments made by the Committee. However, given 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.

The Department wishes the Regulations to be made now for two reasons. First, to enable the introduction of hard shoulder running and variable speed limits between junctions 10 and 11 prior to the Olympics. This will allow benefits to be delivered to the road user through reduced congestion as a result of the extra capacity. Secondly it will enable the overall project programme of the scheme to be maintained

4. Legislative Context

4.1 The 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. The 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 Schedule to the Regulations.

4.2 Section 134(2) of the Road Traffic Regulation Act 1984 requires the Secretary of State to consult with representative organisations as he 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, enables 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 the Regulations will indicate to drivers that vehicles are entering, have entered or are exiting a road covered by the Regulations.

4.5 The Motorways Traffic (England and Wales) Regulations 1982 (S.I. 1982/1163) are modified by the Regulations to permit the hard shoulder to be used as a carriageway where a speed limited sign is displayed.

5. Territorial Extent and Application

5.1 This instrument extends to Great Britain but applies only to England. Only those sections of motorway specified in the instrument will be affected, all of which are located in England.

6. European Convention on Human Rights

6.1 As the instrument is subject to the 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 has a budget for carrying out a programme of strategic schemes to make better use of motorways and other key roads. The Highways Agency is developing its role as Network Operator for the Strategic Road Network through a series of traffic management, network control and 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 increasing 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. It is aimed at tackling congestion through the introduction of technology to make best use of the existing road space whilst maintaining and, where possible, improving current safety standards.

7.3 Variable mandatory speed limits and hard shoulder running on the M1 Motorway between junctions 10 and 13 will enable proactive management of the motorway network in the Bedfordshire area. The variable mandatory speed limit displayed on the motorway and the use of the hard shoulder as a running lane will take into account prevailing traffic conditions with the aim of reducing congestion and ensuring the smooth flow of traffic.

7.4 The Highways Agency is committed to building upon the success of the existing scheme which has been operational on the M42 between junctions 3a and 7 since 2006, and which was

extended to M6 junction 4 to 5 and 8 – 10a in 2009/10. It is expected that the variable mandatory speed limits and hard shoulder running on the M1 Motorway between junctions 10 and 13 will:

- reduce congestion;
- provide more reliable journey times;
- reduce the frequency of accidents; and
- reduce driver stress.

8. Consultation outcome

8.1 The consultation period on the proposal to introduce variable mandatory speed limits and hard shoulder running on the M1 between junctions 10 and 13 commenced on the 22 August 2011 and finished on 14 October 2011 (8 week period).

8.2 An 8 week consultation period was chosen for the following reasons:

- public information exhibitions for the project were undertaken in 2009. These provided scheme details and invited comment from stakeholders and the public on the proposals for improvements to M1 junctions 11 and 12. Details included proposals to operate the hard shoulder as part of the managed motorway;

- the reduced consultation period will give the opportunity for the hard shoulder between junction 10 and 11 of the M1 to be used as a running lane in early 2012;
- it would be possible for hard shoulder running between junction 10 and junction 11 to be delivered 12 months ahead of the publicised scheme completion date of April 2013; and
- the reduced consultation period was intended to reduce the time difference from when the infrastructure will be complete to when it can be fully operated enabling benefits of the investment to be realised at the earliest opportunity.

8.3 In all a total of 11 responses were received with 7 in favour of the scheme and 2 who felt that the proposal was a temporary solution; the other 2 had no opinion either way. In percentage terms this represents 64% in support and 18% who felt that the proposal was only a temporary solution. The other 18% had no opinion either way.

8.4 Those in favour include the Road Haulage Association, Freight Transport Association, the Road Rescue Recovery Association, the local authority, representatives of small to medium sized businesses in the area and two members of the general public.

8.5 Whilst each of the above supports the proposals their responses also include additional comments about the scheme. The key issues included:

- general concerns over the Highways Agency's policy of switching off lighting;
- the need for the M1- A5 link and junction 11a;
- education of road users in the use of managed motorway;
- concerns about the ability for stricken vehicles to reach a refuge because of the spacing of emergency refuge areas (ERAs); and
- concern about the ability of emergency services to effectively respond to incidents on the M1 Motorway.

8.6 In response to the above:

- Lighting - there is no requirement for lighting as part of the overall design for managed motorway schemes but lighting assessments are considered as part of overall scheme design. Analysis shows that the lights can be switched off on the M1 Motorway between

- A5 – M1 link and J11a - information on this project and the proposed Public Inquiry due to take place early next year will be made available in leaflets and on the Highways Agency website.
- Education of road users - all the signals used are referenced in the current version of the Highway Code so all road users should be aware of their use and meaning.
- ERA use - ERAs will enable the majority of road users to reach a safer location away from live traffic rather than stopping on the hard shoulder during times of hard shoulder operation but there may well be cases where vehicles cannot reach an ERA and will have to stop on the hard shoulder. If this happens the Highways Agency are able to move traffic to other lanes and obtain access to the stricken vehicle quickly to minimise disruption and delay.
- Emergency service access - the Regional Control Centres and Traffic Office Services have specific procedures in place to ensure access routes are made available wherever possible by closing the appropriate lanes.

8.7 Of the 2 responses that felt that the proposal was only a temporary solution, the main issues raised were:

- support scheme but only as temporary measure, would like to see widening to Dual 4 lanes.
- concerns relating to a missed opportunity to permanently increase capacity and that hard shoulder running will only provide a temporary fix.

8.8 In response to the above:

- Experience from other similar schemes on the M42 and M6 have shown that hard shoulder running has significant benefits in terms of reducing delays experienced from congestion without the need to increase the size of the asset. By managing traffic speed and utilising the hard shoulder, the aim is to smooth traffic flow and remove the stop start culture, which is one of the main causes of congestion. By having the ability to control traffic in this way we are also able to manage incidents and accidents more effectively and speed up response and clearance times, further reducing delays to road users.

8.9 The other two queries were:

- can this consultation also be used to raise the issue of high occupancy vehicle lanes (HOV)?
- please explain why there are negative accident, vehicle operating and CO2 benefits within the impact assessment?

8.10 In response to the above

- there are no plans at the moment for HOV lanes on managed motorway schemes;
- the increase in vehicle operating costs for consumer users and business users is caused by higher average journey speeds, longer journeys travelled. There would be a reduction in accidents of 15% due to managed motorway controls. However, this would be offset by the increase in flows that would be induced by the additional capacity. Green house gases would increase due to the additional vehicle kilometres travelled by induced trips.

8.11 A more detailed analysis of the consultation outcome and report, including responses to issues raised above, is available on the Highways Agency website. Those who responded to the consultation have been sent a copy of the response to consultation report.

8.12 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 mandatory speed limits should be implemented on the M1 between junction 10 and junction 13.

8.13 The consultation identified no requirement to make changes to the Impact Assessment. However, the format of the Impact Assessment has been updated and it has also been updated to rebase the prices to 2011 prices.

9. Guidance

9.1 The consultation pack issued by the Highways Agency to stakeholders on 22nd August 2011 contained information on the operation of variable mandatory speed limits and hard shoulder running on the M1 between junctions 10 and 13. 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 and vehicle recovery operators. Stakeholders will continue to be made aware of updates and news on the scheme implementation, with particular consideration given to the effects 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, and the public sector is that variable mandatory speed limits and hard shoulder running will benefit the motorist by helping to reduce congestion, be informative and improve journey times. It aims to reduce the impact of accidents and reduce driver stress.

10.2 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 business.

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

12. Monitoring & review

12.1 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 a reduction in journey times. There will be a Post Opening Project Evaluation of the scheme 1 year and 5 years after it has opened. The purpose of the Post Opening Project Evaluation is to measure the business case aims and benefits of the scheme against what it is actually delivering 1 and 5 years after opening.

13. Contact

13.1 If you have any queries regarding the Regulations please contact Andy Hitch at the Highways Agency. Tel: 0121 678 8145 or e-mail: M1J10-13Improvement@highways.gsi.gov.uk