EXPLANATORY MEMORANDUM TO

THE M23 MOTORWAY (JUNCTIONS 8 TO 10) (VARIABLE SPEED LIMITS) REGULATIONS 2020

2020 No. 79

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 These Regulations enable the operation of variable mandatory speed limits on the M23 motorway between junctions 8 and 10.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England. Only those sections of motorway specified in the Schedule to the Regulations will be affected, all of which are in England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 These Regulations are being made in respect of the use particular lengths of special road (i.e. motorway) rather than in relation to the use of special roads generally. These Regulations allow the operation and enforcement of variable mandatory speed limits in relation to the specified roads set out in the Schedule to the Regulations.

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

6.3 The Motorways Traffic (England and Wales) Regulations 1982 (S.I. 1982/1163) have been amended to provide for the use of emergency refuge areas (S.I. 2015/392).

6.4 The Traffic Signs Regulations and General Directions 2016 (S.I. 2016/362) enable certain traffic signs to be used to convey information applying to the use of variable mandatory speed limits on motorways.

6.5 In addition, traffic signs authorised by the Secretary of State under section 64 of the 1984 Act will be placed on or near the specified roads set out in the Schedule to the Regulations to indicate to drivers that vehicles are entering, have entered or are exiting a road to which variable mandatory speed limits apply.

7. Policy background

What is being done and why?

7.1 The M23 Junctions 8 to 10 Smart Motorway Scheme ("the Scheme") was included in the June 2013 Spending Review and confirmed in the Road Investment Strategy published in December 2014.

7.2 The M23 motorway is a strategic route for local, regional and international traffic and forms part of the Strategic Road Network (SRN) in England connecting Crawley and Gatwick Airport to the M25 motorway and routes into London. This section of the M23 motorway carries more than 111,000 vehicles a day. The Scheme is part of the Highways England programme to add capacity to the SRN to support economic growth and maintain mobility.

7.3 The use of variable mandatory speed limits is an essential element in achieving the above objectives as varying the speed limit allows traffic flows to be managed more effectively. Variable mandatory speed limits will be set in response to the prevailing traffic conditions and will be clearly displayed on advanced motorway indicator signs above each lane of the main carriageway, mounted on overhead gantries, on verge-mounted variable message signs and on post-mounted advanced motorway indicators. Once in force the Regulations will restrict driving on a road specified in the Schedule to the Regulations at a speed exceeding that displayed on the signs. When no speed is displayed on the signs then the national speed limit will be in force.

7.4 Highways England is committed to building upon the success of the existing smart motorway schemes which have been implemented on a number of busy motorway sections across the country. It is expected that the Scheme will increase motorway capacity and reduce congestion; smooth traffic flows; provide more reliable journey times and increase and improve the quality of information for the driver.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument is not amending another instrument.

10. Consultation outcome

10.1 A consultation which included the proposed implementation of variable mandatory speed limits as part of the Scheme took place between 11th December 2017 and 12th January 2018. A consultation pack was sent to 39 consultees including stakeholder groups, other affected representative organisations and individual businesses. The

consultation was also open to public participation through the Highways England Citizen Space website and the consultation document can be accessed using the following link- https://highwaysengland.co.uk/projects/m23-junctions-8-to-10-smart-motorway/

10.2 Highways England encouraged the specific consultees and the general public to register their views on the variable mandatory speed limits proposed for the Scheme. A total of 15 responses were received. The responses were wide-ranging and included support for smart motorways in general, support for the introduction of the proposed variable mandatory speed limits on this section of the motorway as well as raising concerns which fell outside the subject of the consultation.

10.3 Highways England addressed, and responded in writing to, all the issues and concerns raised by respondents. The post-consultation report concluded that the variable mandatory speed limits proposed for the Scheme should be implemented. The report can be accesses using the following link- https://highwaysengland.co.uk/projects/m23-junctions-8-to-10-smart-motorway/

11. Guidance

11.1 The consultation pack issued by Highways England to stakeholders on 11th December 2017 contained information on the operation of variable mandatory speed limits as proposed for the Scheme. This consultation pack was also published on the gov.uk website. Stakeholders included members of the emergency services, road user groups, local authorities and vehicle recovery operators. Stakeholders will continue to receive updates and news on the Scheme implementation with consideration given to the commencement of the Scheme and its effects on local residents, the travelling public and businesses through Highway's England's website, media and press releases.

12. Impact

12.1 The impact on business, charities or voluntary bodies and the public sector is that variable mandatory speed limits work to equalise traffic flow and provide queue protection benefiting the motorist by helping to reduce congestion and provides more reliable journey times.

12.2 An Impact Assessment has not been prepared for this instrument because no impact on the costs of business, charities, voluntary bodies or the public sector is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses in the sense of imposing a regulatory burden.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to conduct an assessment of the effectiveness of the Scheme in relation to traffic flows, accidents and environmental factors. A Post Opening Project Evaluation (POPE) of the Scheme is planned in the second and sixth years of its operation. The purpose of the POPE is to measure the business case aims and benefits of the Scheme against what it is actually delivering at the time of the evaluations.

14.2 A statutory review provision is not included in the Regulations because they do not impose a regulatory burden impacting on business costs and there are no factors that would make it particularly desirable to include a review provision.

15. Contact

15.1 Graham Hayes at Highways England, email: Graham.Hayes@highwaysengland.co.uk can be contacted with any queries regarding the instrument.

15.2 Rosemary Hopkins, Deputy Director for the Strategic Roads Directorate, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Vere of Norbiton at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.