EXPLANATORY MEMORANDUM TO

THE M275 AND M27 MOTORWAY (SPEED LIMIT AND BUS LANE) REGULATIONS 2015

2015 No. 405

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 ("JCSI").

2. Purpose of the instrument

These Regulations revoke and replace S.I. 2014/790 - the M275 and M27 (Speed Limit and Bus Lane) Regulations 2014 (the "2014 Regulations") which in turn revoked and replaced the M275 and M27 Motorway (Speed Limit) Regulations 2005 (the "2005 Regulations").

These Regulations essentially duplicate the 2014 Regulations in that they confirm the imposition of 50mph and 60mph speed limits on various stretches of road in addition to the creation of a bus lane on a specified length of the M275 motorway and its southbound entry slip road from the Tipner Interchange. However, the key difference between these Regulations and the 2014 Regulations is the insertion of greater clarity as to the points where the speed limits start and end on each specified stretch of road. Portsmouth City Council have confirmed that the traffic signs and road markings at the Tipner Interchange accurately reflect these legal limits and the approximation wording that appeared at the end of each Schedule in the 2014 Regulations has therefore been deleted.

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

The main reason for revoking and replacing the 2014 Regulations and removing the approximation wording at the end of each Schedule was that this aspect of the 2014 Regulations was reported by the JCSI for defective drafting in paragraph 7 of its third report of Session 2014-15. These Regulations also address the Committee's observation at the end of paragraph 7.7 of that report to the effect that "the occasion could also be taken to specify in operative provisions the point from which measurements are taken". This has been done by, for example, mentioning the centre point of junctions in operative provisions where applicable. The Committee will also want to note that the Explanatory Note now mentions the relevant criminal offence. This was something that the Department undertook to look at again following the observations of the Committee.

Finally, given that the dominant purpose of these Regulations is to correct defective drafting in the 2014 Regulations, it is considered that this is an appropriate case in which to apply the free issue procedure.

4. Legislative Context

This instrument is made under the powers in section 17(2) and (3) of the Road Traffic Regulation Act 1984 ("RTRA 1984") for the Secretary of State to make regulations governing the use of a particular special road. The laying power (negative resolution) is found in s.134(3) RTRA 1984.

Normally, speed limit orders for motorways are dealt with on behalf of the Secretary of State by the Highways Agency. The Highways Agency is an executive agency of the Department for Transport responsible for the maintenance and management of the strategic road network in England. However, the M275 at Portsmouth (along with the M27 slip roads which connect to it) is one of a very small number of motorways in England which are managed by the local authority (in this case Portsmouth City Council). The Highways Agency therefore has no jurisdiction, nor can the council make the speed limit order because of the status of the motorway as a special road (section 84(4) of the RTRA 1984 specifically excludes special roads from a local traffic authority's jurisdiction in relation to speed limit orders). This is therefore one of a very small number of cases where the powers of traffic regulation fall to be exercised directly by the Secretary of State, as was also the case for the 2014 Regulations and the original 2005 Regulations.

In relation to the now deleted approximation wording which appeared in the 2014 Regulations, the Department has given careful consideration to the Committee's suggestion that it should consider the scope for achieving its previous policy objective (of building in some margin for error regarding the placement of signage) by making use of the power in section 17(2)(d) of the RTRA 1984. As noted by the Committee, this power would allow the Department to include "provisions having effect in such places, at such times, in such manner or in such circumstances as may for the time being be indicated by traffic signs in accordance with the regulations" and could be used to impose speed restrictions once indicated by suitable signs within the relevant road lengths. However, given the need to precisely specify the relevant road lengths in any event and given that confirmation has now been received that the traffic signs have been accurately placed in accordance with those legal limits, the Department considers that it is no longer necessary to try to build in any margin for error.

5. Territorial Extent and Application

England (although in practice it only affects specific local roads in the Portsmouth area).

6. European Convention on Human Rights

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***

The purpose of the 2014 Regulations was to impose speed limits on various stretches of road following the construction of a new junction. They also created a designated bus lane. Those Regulations are now being revoked and replaced in almost identical terms by the current Regulations. The only material difference is that lengths of road in Schedules 1-3 have now been precisely defined. Following confirmation from Portsmouth City Council that the traffic signs and road markings at the Tipner Interchange accurately reflect these legal limits, the approximation wording that appeared at the end of each Schedule in the 2014 Regulations has been deleted. There can therefore be no uncertainty going forward in relation to the associated criminal offence. The opportunity has also been taken to review and update the wording in Regulation 6(2) in relation to the exemptions for vehicles which might use the bus lane and to reference the relevant criminal offence in the Explanatory Note.

- ***Consolidation***

The Regulations revoke and replace the 2014 Regulations, which in turn revoked and replaced the 2005 Regulations. It is considered better to have just one complete set of speed limit regulations governing the roads in question so that there is no confusion on the statute book as to the applicable law.

8. Consultation outcome

The Department has carried out consultation with relevant representative organisations under s.134(2) RTRA 1984 - in particular, Portsmouth City Council and Hampshire Police who have been able to confirm that the placing of traffic signs and road markings accurately reflect the legal limits specified in Schedules 1-3.

9. Guidance

Road users will already be aware of the obligations because the appropriate signage is already in place on the roads concerned.

10. Impact

This instrument has no significant effect on business, charities, voluntary bodies or the public sector.

11. Regulating small business

11.1 The legislation applies equally to all motorised road users. It has no additional effect on small business.

12. Monitoring & review

The operation of the new junction and associated speed limits and bus lane will be kept under review by Portsmouth City Council and Hampshire Police. If it is felt at a future point that further legislative amendments are needed, then these organisations will make a request to the Department for Transport. As explained in paragraph 4 above, this is in effect a local traffic regulation order which the local organisations

concerned are best placed to monitor. The power to make the regulations falls to the Department for Transport only because of the unusual legal status of the M275 as a local authority motorway.

13. Contact

Charlotte Bradford - Road Safety Legislation, Department for Transport
Tel: 0207 944 2117
Email: charlotte.bradford@dft.gsi.gov.uk