EXPLANATORY MEMORANDUM TO

THE M56 MOTORWAY (JUNCTIONS 6 TO 7) (VARIABLE SPEED LIMITS) REGULATIONS 2022

2022 No. 607

1. Introduction

1.1 This explanatory memorandum has been prepared by 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 between junctions 6 and 7 as part of the M56 junctions 6 to 8 all lane running scheme. Without this instrument, the variable speed limits could not be enforced by the police.

3. Matters of special interest to Parliament

3.1 This explanatory memorandum is being re-laid in response to questions raised by the Secondary Legislation Scrutiny Committee. The explanatory memorandum has been updated to provide greater detail on the House of Commons Transport Select Committee's 3rd Report on the safety and rollout of smart motorways which was published in November 2021, and the Government's response to that report of January 2022. Answers to the points raised by the Secondary Legislation Scrutiny Committee are included in paragraphs 7.5 to 7.14.

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 of 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 (The Motorways

Traffic (England and Wales) (Amendment) (England) Regulations 2015 (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 M56 Junctions 6 to 8 all lane running scheme ("the Scheme") was included in the June 2013 Spending Review and confirmed in the Road Investment Strategy[1] published in 2014.

7.2 This section of the M56 is a key commuter route and suffers from significant congestion because it operates at or over capacity. Growth at Manchester Airport, Airport City and the regional centre as a whole will all add significant pressure on this section. Additional road capacity is therefore needed to support the increasing demand. 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 drivers.

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 Converting the hard shoulder to a running lane, creating four lanes of road, adds vital extra capacity to the country's busiest roads, supporting the economy and improving journeys at far lower cost and environmental impact than traditional road widening. Importantly the latest data shows that overall, in terms of serious or fatal injuries, smart motorways are the safest of the strategic road network.

7.5 In October 2020, National Highways published a new standard to be adopted by smart motorways entering the design phase, which requires places to stop in an emergency to be three-quarter miles apart where feasible, with a maximum spacing of one mile. The Scheme design is based on an earlier smart motorways standard that allowed for a

[1] Road Investment Strategy 2015

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/410029/ris-for-2015-16-road-period-print-version.pdf

maximum spacing of 2.5km on average between places to stop in an emergency, including Emergency Areas (EAs).

7.6 The information provided to the Secondary Legislation Scrutiny Committee by National Highways on 10 June 2022 incorrectly stated that for the scheme "The EA average spacing is 2.5km." This 2.5km figure refers to the maximum allowed by the design standard applied to this scheme, rather than the average spacing of the EAs that are being constructed. The M56 scheme is four miles long and includes four Emergency Areas. There will be a place to stop in an emergency every 1.7km (1.07 miles) on average.

7.7 National Highways is developing a national emergency area retrofit programme that was announced in January 2022, and the M56 will be considered within it. This programme will be available later in the year. The Scheme will open with stopped vehicle detection technology in place.

7.8 In response to concerns raised over the safety of smart motorway schemes, the Government published its 'Smart Motorway Safety Evidence Stocktake and Action Plan'[2] in March 2020, setting out the most recent safety data and a number of actions to improve the safety of, and public confidence in, smart motorways.

7.9 In 2021 the House of Commons Transport Select Committee held an inquiry on the roll-out and safety of smart motorways and issued its report in November 2021. The Government issued its response[3] in January 2022, agreeing to take forward all the Committee's recommendations, including pausing the roll out of new smart motorways yet to start construction until five years of safety and economic data is available on the sections opened before 2020.

7.10 The Government's response explained that schemes already in construction would be completed as they were all more than halfway completed. Leaving traffic management in place for the duration of the pause would lead to significant disruption to road users and could potentially lead to drivers using less safe A-roads.

7.11 In total there are six All Lane Running smart motorway schemes in construction which were to be completed during the pause. These are:

- M1 junction 13 – 16 (SI 2020/956)
- M4 junction 3 – 12 (SI 2019/1430)
- M6 junction 13 – 15 (SI 2021/116)
- M6 junction 21a – 26 (to be laid)
- M27 junction 4 – 11 (SI 2021/17)
- M56 junction 6 – 8 (this Statutory Instrument)

7.12 The Government's response to the Transport Select Committee report also committed to investing £390 million in retrofitting emergency areas across schemes in operation or construction to provide at least 150 additional emergency areas across the network by 2025. In total the measures in the Stocktake and the government's response to the Transport Select Committee report represent over £900 million of safety

[2] Smart Motorway Safety Evidence Stocktake and Action Plan https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936811/smart-motorway-safety-evidence-stocktake-and-action-plan.pdf).

[3] The roll-out and safety of smart motorways https://committees.parliament.uk/work/1066/the-rollout-and-safety-of-smart-motorways/publications/

improvements to smart motorways over the remainder of this road period (The Second Road Investment Period, 2020-2025).

7.13 In May 2022, National Highways published its 'Smart motorways stocktake second year progress report 2022'[4]. The report set out progress to date on delivering stocktake actions and included the latest safety data for smart motorways. To gain further confidence in the safety conclusions of this report, we have worked closely with the Office for Rail and Road (ORR), who undertook additional independent assurance for the supporting analysis.

7.14 The report found that overall, in terms of serious or fatal casualties, smart motorways are the safest roads on the strategic road network. The report also found that based on five years of data, motorways are the safest roads to travel on when compared to other roads in England.

7.15 Based on five years of data, all three smart motorway types (Dynamic Hard Shoulder, Controlled Motorway and All Lane Running) are performing better than conventional motorways on the casualty focused rates, and much better than A-roads for both collision and casualty rates.

7.16 The personal injury collision rate (PIC) for A-roads is 13.59 per hundred million vehicle miles (hmvm), compared to smart motorways which range from 6.24 per hmvm (All Lane Running) to 8.46 per hmvm (Controlled). A-roads also have the highest fatal and weighted injury (FWI) rates at 0.91 per hmvm, compared to smart motorways which range from 0.32 per hmvm (Controlled and Dynamic Hard Shoulder) to 0.33 per hmvm (All Lane Running). A-roads also have a much higher Killed and Seriously Injured (KSI) rate at 3.66 per hmvm, compared to smart motorways which range from 1.17 per hmvm (Dynamic Hard Shoulder) to 1.30 per hmvm (Controlled) to 1.38 per hmvm (All Lane Running)

7.17 Conventional motorways have lower PIC rates at 6.12 than other road types, but as their fatal and serious casualty rates (FWI at 0.37 and KSI at 1.45) are higher, this suggests that when a collision occurs on a conventional motorway it is more likely that it will involve a killed or seriously injured casualty than a collision on the three smart motorway types.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This instrument is not amending another instrument.

10. Consultation outcome

10.1 The consultation for the proposed implementation of variable mandatory speed limits as part of the Scheme took place between 2nd September 2019 and 30th September 2019. This provided an opportunity for consultees to comment on the proposal to introduce, by way of Regulations, the variable mandatory speed limits between

[4] 'Smart motorways stocktake second year progress report 2022'
https://nationalhighways.co.uk/media/uivj2zem/smart-motorways-stocktake-second-year-2022.pdf

junctions 6 and 7 of the Scheme. The consultation[5] was also open to public participation through the National Highways Citizen Space website.

10.2 National Highways 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 13 responses were received. The responses were wide-ranging and included 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 National Highways addressed, and responded [6]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.

11. Guidance

11.1 The consultation pack issued by National Highways to stakeholders on 2nd September 2019 provided detailed 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 Scheme progress with consideration given to the commencement of the Scheme and its effects on local residents, the travelling public and businesses through National Highway'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 will benefit the motorist by helping to reduce congestion, provide more reliable journey times and reduce the likelihood of accidents. The aim in introducing the variable mandatory speed limits is to reduce the severity of accidents, reduce driver stress and increase and improve the quality of driver information.

12.2 An Impact Assessment has not been prepared for this instrument because there is an insignificant impact on the costs to business. The de minimis assessment undertaken by National Highways concluded that the equivalent annual net direct cost to business of compliance with the speed limit would be nil (based on 2019 prices discounted to 2020). The de minimis assessment does not require external scrutiny or publication, but is peer reviewed to ensure the analysis is accurate but most importantly, that the policy meets all the requirements for DMA.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

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[5] M56 junctions 6-8 Statutory Instrument consultation document. https://highwaysengland.citizenspace.com/he/m56-junctions-6-to-8-smart-motorway/supporting_documents/M56%20junction%206%20to%208%20Smart%20Motorway%20Statutory%20Instrument%20Consultation%20Document.pdf

[6] Response to Statutory Instrument Consultation. https://highwaysengland.citizenspace.com/he/m56-junctions-6-to-8-smart-motorway/results/m56j6-8responsetostatutoryinstrumentconsultation_final.docx.pdf

13.2 No specific action is proposed to minimise regulatory burdens on small businesses as the legislation does not impose unnecessary burdens.

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 fourth year 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 evaluation.

14.2 A statutory review provision is not included in the Regulations as a review would be disproportionate given the economic impact of the Regulations on business and there are no factors that would make it particularly desirable to include a review provision.

15. Contact

15.1 Oluwole Solola at National Highways, telephone: 07590 630161, email: Oluwole.Solola@nationlhighways.co.uk can be contacted with any queries regarding the instrument.

15.2 Helen Ramsden, 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, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.