EXPLANATORY MEMORANDUM TO

THE M6 MOTORWAY (JUNCTIONS 21A TO 26) (VARIABLE SPEED LIMITS) REGULATIONS 2024

2024 No. 841

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Lilian Greenwood MP, Parliamentary Under Secretary of State at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

2.2 Kate Walters, Deputy Director for the Strategic Roads Directorate at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Peter Smith at National Highways Limited, telephone: 07767 851 891 or e-mail: peter.smith@nationalhighways.co.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will permit the operation and enforcement of variable mandatory speed limits between junctions 21a to 26 of the M6 motorway, as set out in the schedule to the instrument.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England. The sections of road affected, namely junctions 21a to 26 of the M6 motorway, are situated in England.

5. Policy Context

What is being done and why?

5.1 All Lane Running ("ALR") motorways otherwise known as smart motorways were introduced as part of an approach to tackling the most congested parts of the motorway network, improving journey reliability by controlling the flow and speed of traffic. ALR motorways also provide extra capacity on the busiest motorways for road users and those who work on the roads.

5.2 The M6 motorway is a major inter-urban regional route connecting towns and cities. It provides access to important international gateways and is a key link between the North West and the West Midlands, and Merseyside and Greater Manchester.

5.3 The M6 motorway junctions 21a to 26 ALR scheme ("the Scheme") was included in the second road investment strategy to add capacity to the existing strategic road network to support economic growth and maintain mobility. This section of the M6 motorway carries more than 110,000 vehicles per day. It is expected that the Scheme will provide 30% additional capacity and reduce congestion. It is expected to smooth traffic flow, provide more reliable journey times and increase and improve the quality of information for the driver.

5.4 In April 2023 a decision was taken to stop building smart motorways due to financial pressures and the lack of confidence felt by drivers. The announcement also stated that while no new stretches of road would be converted into smart motorways, the M56 J6-8, and M6 J21a-26 ALR schemes would be completed given they were already over three quarters constructed[1]. The implementation of this instrument is a practical matter to complete the implementation of a scheme that is already close to completion and should not be taken as any indication of future policy.

5.5 The latest safety data for smart motorways, published in National Highways Limited's Smart Motorways Stocktake Third Year Progress Report[2] in December 2023, continues to show that overall, all three types of smart motorway (ALR, dynamic hard shoulder and controlled motorways) are safer than conventional motorways in terms of deaths or serious injuries, but National Highways Limited takes public concern on this subject extremely seriously.

5.6 This instrument enables the use of variable mandatory speed limits on this stretch, a key part of the upgrade, to be enforced by the police. The use of variable mandatory speed limits is essential to achieving the objectives set out in paragraph 5.3. This is because varying the speed limit allows traffic flows to be managed more effectively. Controlling the speed of traffic helps prevent bunching of vehicles and queues forming, which would otherwise happen if fast moving traffic is allowed to catch up to slower moving traffic.

5.7 Variable mandatory speed limits will be set in response to the prevailing traffic conditions or incidents. They will be clearly displayed on advanced motorway indicator signs above each lane of the main carriageway and on large variable message signs mounted above the nearside of the carriageway, and on post-mounted advanced motorway indicators on entry slip roads.

5.8 Once in force, the instrument will restrict driving on a road specified in the schedule to the instrument at a speed exceeding that displayed on the signs. When no speed is displayed on the signs then the national motorway speed limit (70 miles per hour) will be in force.

5.9 The only part of the Scheme provided for in this instrument is the introduction of variable mandatory speed limits on the M6 motorway between junctions 21a to 26.

5.10 Variable mandatory speed limits are required and used both in the technology testing phase of the Scheme and the subsequent operation of the smart motorway once it has been completed and the roadworks removed.

[1] https://www.gov.uk/government/news/all-new-smart-motorways-scrapped
[2] https://nationalhighways.co.uk/media/rarb00qi/smart-motorways-third-year-progress-report-final.pdf.

5.11 The Scheme is approximately 10 miles long and when completed by Spring 2025 will include 22 Emergency Areas (EAs), spaced within three quarters of a mile of each other.

5.12 Originally the Scheme included 10 EAs (4 northbound and 6 southbound). This provided places to stop which were spaced a maximum of 1.5 miles apart, to comply with standards in force at the time the Scheme was designed. However, the M6 motorway scheme was included within a national emergency area retrofit programme. Therefore, the Scheme is currently constructing an additional 12 EAs as part of this programme (7 northbound and 5 southbound). This will reduce the spacing between EAs on the Scheme to less than three quarters of a mile. This action ensures that when completed and open, the Scheme will be fully compliant with the latest design standards concerning spacing of EAs and the recommendation set out in the Transport Select Committee's inquiry into the safety of smart motorways (published in November 2021)[3].

5.13 The Scheme will also open with stopped vehicle detection ("SVD") in place. SVD enables the detection of vehicles which have stopped on the carriageway or in an EA. Currently a radar-based system, it is in place on ALR sections of smart motorway. When SVD identifies a stopped vehicle, it provides an alert to National Highways Limited's regional control room and at the same time automatically sets a message sign on the road to warn of a report of obstruction whilst the alert is verified by an operator. The operators can then respond quickly to close lanes with a Red X signal, display speed limits and deploy traffic officers.

What was the previous policy, how is this different?

5.14 Previously the section of road between junctions 21a to 26 of the M6 motorway was not ALR and did not have variable mandatory speed limits in place. The national motorway speed limit (70 miles per hour) was in force.

6. Legislative and Legal Context

How has the law changed?

6.1 Previously the national motorway speed limit applied to the section of road between junctions 21a to 26 of the M6 motorway, there was no legal provision to permit the operation and enforcement of variable mandatory speed limits on this section of road. This instrument has been made under sections 17(2), (3) and (3ZB) of the Road Traffic Regulation Act 1984[4], which empowers the Secretary of State for Transport to make regulations regarding the use of special roads generally and, in this case, with respect to particular lengths of motorway. This instrument permits the operation and enforcement of variable mandatory speed limits in relation to the sections of road specified in the schedule to the instrument. The ability for the police to enforce variable speed limits is important to ensure compliance by motorists. Drivers who fail to comply with the variable mandatory speed limits will commit an offence under s17(4) of the Road Traffic Regulation Act 1984 and may be prosecuted by the police and the Crown Prosecution Service.

[3] https://committees.parliament.uk/publications/7703/documents/80447/default
[4] 1984 c. 27.

6.2 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.

6.3 In addition, traffic signs authorised by the Secretary of State under section 64 of the Road Traffic Regulation Act 1984 will be placed on or near the roads set out in the schedule to the instrument to indicate to drivers that vehicles are entering, have entered, or are exiting a section of road where variable mandatory speed limits apply.

Why was this approach taken to change the law?

6.4 This is the most suitable approach to make the necessary changes and is in line with the approach followed on other schemes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The consultation for the proposed implementation of this instrument took place between 25th November 2020 and 23rd December 2020.[5] The consultation document was also published on National Highways Limited's Citizen Space consultation website.

7.2 The consultation was open to public participation through the Citizen Space website. Other consultees included local MPs, local Government bodies, members of the emergency services, environmental advisory groups, local business organisations and road and transport groups. The consultation provided an opportunity for consultees to comment on the proposed instrument. Respondents provided their comments via the consultation questionnaire response form or by e-mail.

7.3 18 responses were received to the consultation. 12 of these were from members of the public and businesses, whilst 6 were from other stakeholders.

7.4 9 of the 12 respondents who answered the question on whether the introduction of variable mandatory speed limits would improve the travelling conditions along this section of the M6 motorway felt that an improvement would result.

7.5 There were 12 responses to the question on whether any aspects of the proposal had led to concerns. Respondents to this question provided a range of comments - 3 raised concerns about the safety of ALR schemes and one respondent expressed concerns about the loss of the hard shoulder and the distance between EAs.

7.6 6 responses were received to the question of whether there were any additional comments about the proposal. These responses commented on delays that may result from construction traffic, an increase in CCTV cameras and the impact of the proposal on noise and air quality.

7.7 A detailed analysis of the consultation outcome and the consultation report, including National Highways Limited's responses to the issues raised above, is available on National Highways Limited's website.[6]

7.8 Consultation respondents were also sent a copy of the consultation report.

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[5] M6 junction 21a to 26 Upgrade – Variable Mandatory Speed Limit Statutory Instrument consultation - National Highways - Citizen Space - https://nationalhighways.citizenspace.com/he/m6-junction-21a-to-26-upgrade-variable-mandatory-s/.

[6] m6vmslconsultationresponse.pdf (citizenspace.com) - https://nationalhighways.citizenspace.com/he/m6-junction-21a-to-26-upgrade-variable-mandatory-s/results/m6vmslconsultationresponse.pdf.

7.9 It is considered that the concerns raised in relation to the introduction of variable mandatory speed limits were adequately addressed during the consultation process. The consultation report concluded that the variable mandatory speed limits proposed as part of the Scheme should be implemented.

8. Applicable Guidance

8.1 At the start of the consultation on 25th November 2020, a consultation document was issued to stakeholders including local MPs, local Government bodies, members of the emergency services, environmental advisory groups, local business organisations and road transport groups. The consultation document was also published on National Highways Limited's Citizen Space consultation website for public consideration. The consultation document provided detailed information on the operation of the variable mandatory speed limits proposed for the Scheme. A report on the consultation outcome was also published on the website. Stakeholders continue to receive updates on the Scheme's progress. Updates are also published on National Highways Limited's website and social media and shared through press releases.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on the cost to business. The de minimis assessment undertaken by National Highways Limited concluded that the equivalent annual net direct cost to business of compliance with the variable mandatory speed limits would be nil. Variable speed limits are an essential feature of ALR motorways. This ALR scheme, when opened, will provide additional capacity to support economic growth.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that variable mandatory speed limits will benefit by helping to reduce congestion, supporting economic growth, being informative and improving journey times.

9.3 The legislation does not impact small or micro businesses in a negative manner.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the operation of variable mandatory speed limits will be monitored and assessed to establish the effectiveness of the Scheme on traffic flows, accidents and environmental factors. National Highways Limited will produce a Post Opening Project Evaluation ("POPE") report three years after the opening of the Scheme.

10.2 The instrument does not include a statutory review clause because it does 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.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 In April 2023 the then Government announced that new smart motorways had been removed from future road-building plans due to financial pressures and the lack of confidence felt by drivers. The announcement also specifically stated "While no new stretches of road will be converted into smart motorways, the M56 J6-8 and M6 J21a-26 will be completed given they are already over three quarters constructed"[7].

12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State at the Department for Transport has made the following statement regarding Human Rights:

"In my view the provisions of the M6 Motorway (Junctions 21a to 26) (Variable Speed Limits) Regulations 2024 are compatible with the Convention rights".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[7] https://www.gov.uk/government/news/all-new-smart-motorways-scrapped.