EXPLANATORY MEMORANDUM TO

THE M6 MOTORWAY (JUNCTIONS 5 TO 8) (ACTIVELY MANAGED HARD SHOULDER AND VARIABLE SPEED LIMITS) REGULATIONS 2013

2013 No. 1201

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 roads to which the Regulations apply from driving a vehicle at a speed above the maximum indicated by each speed limit sign passed by that vehicle, until that vehicle passes a sign indicating that the national speed limit applies, or that vehicle leaves the roads covered by the Regulations. The Regulations also permit drivers to use the hard shoulder as an additional lane when so indicated by signals placed above the carriageway. The roads to which these Regulations apply are on the M6 Junctions 5-8 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 None.

4. Legislative Context

4.1 These 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. These Regulations allow for the operation and enforcement of variable mandatory speed limits in relation to the specified roads set out in the Schedule to the Regulations.

4.2 The Regulations provide for the operation of actively managed hard shoulder running. It modifies the Motorways Traffic (England and Wales) Regulations 1982 (S.I. 1982/1163) so as to allow controlled use of the hard shoulder as an additional running lane in certain circumstances. A vehicle may use the hard shoulder whilst a speed limit is displayed over it. During this period the hard shoulder is treated as a lane of the carriageway. The Regulations also introduce the concept of the ‘emergency refuge area’.

4.3 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 the Act.

4.4 The Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113) as amended, enables certain traffic signs to be used to convey information applying to an actively managed hard shoulder of a motorway and the use of variable mandatory speed limits.

4.5 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 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 covered by the Regulations.

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 negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 In October 2010, following the Spending Review, the Government announced its £1.4 billion programme of 14 schemes to start work before 2015, including the M6 Junctions 5-8 Managed Motorway Scheme. The introduction of the Managed Motorway Scheme builds upon the positive results of a pilot scheme for variable mandatory speed limits and hard shoulder running introduced on the M42 between junctions 3A to 7 since 2006, and which was extended to M6 Junctions 4 to 5 and Junctions 8 to 10a in 2009/10. The Managed Motorway Scheme lies between two sections of the M6, (junctions 4 to 5 and junctions 8 to 10A) which already operate as managed motorways and have portal gantries and lane indicators over all lanes, including the hard shoulder where hard shoulder running is being introduced. Consequently, this scheme when implemented will enable a continuous length of managed motorway running from junction 4 to 10a. The Managed Motorway Scheme aims to smooth traffic flows and provide more reliable journey times. The Government further announced in April 2011 that the Highways Agency will (subject to the outcome of the consultation) start work on the Managed Motorway Scheme on the M6 between Junctions 5 to 8 in 2012.

7.2 The Managed Motorway Scheme will enable proactive management of the motorway network around the Birmingham area. The speed limits displayed on the motorway will take account of prevailing traffic conditions with the aim of ensuring the smooth flow of traffic.

7.3 The Highways Agency is committed to building upon the success of the M42 junctions 3A to 7 where hard shoulder running and variable mandatory speed limits have been in operation since September 2006, and which was extended to M6 Junctions 4 to 5 and Junctions 8 to 10a in 2009/10. It is expected that the Managed Motorway Scheme in the area of the motorway network near Birmingham will:

- Smooth traffic flows;
- Provide more reliable journey times;
- Reduce the number and severity of accidents

8. Consultation outcome

8.1 Following approval of the consultation stage Impact Assessment, a formal consultation on the Birmingham Box Phase 3 Managed Motorways (BB3MM) Regulations was undertaken in respect of the preferred Managed Motorways scheme. The consultation took place between April and June 2012 and involved sending the consultation document to over 90 stakeholders including representative organisations of those affected and individual businesses e.g. numerous local County and Parish Councils, Central Motorway Police Group (CMPG), West Midlands Fire Service, Campaign to Protect Rural England (CPRE), Road Rescue Recovery Association, Institute of Advanced Motorists (IAM) and local MPs. In addition, the consultation document was placed on the Highways Agency's web site and contains a list of all consultees. The consultation document included a copy of the consultation stage Impact Assessment.

8.2 A total of fourteen responses were received to the consultation. Eleven of the fourteen were in favour or broadly supportive of the scheme including Birmingham Airport, The Institute of Advanced Motorists, Royal Automobile Club (RAC), West Midlands Fire Service and Walsall Council. A selection of comments from those organisations are given below:

- Birmingham Airport was in favour of the proposal to provide variable mandatory speed limits, hard shoulder running and other motorway measures on the M6 motorway between junctions 5 and 8. The Airport advised that the proposed works should lead to an improvement in travelling conditions on this section of the motorway. No Highways Agency response was required.

- The Institute of Advanced Motorists were broadly supportive and raised no objection to the proposed scheme stating that that they have long supported investment in managed motorways around urban areas and on our busiest stretches of motorways and continue to do so. No Highways Agency response was required.

- The Royal Automobile Club responded that the scheme replicates an approach that has proved to be successful elsewhere on the M42 and M6. They noted that there is an established track record of reducing congestion whilst maintaining/reducing accidents and that the section from J5 to J8 will remove a bottleneck created by merged motorway on either side of this section. No Highways Agency response was required.

- Walsall Council advised that the use of variable mandatory speed limits and hard shoulder running has delivered improvements for the travelling public. No Highways Agency response was required.

- The West Midlands Fire Service responded that they had no objection to the proposed scheme, noting that the evidence is compelling and makes sound business, safety and environmental sense. No Highways Agency response was required.

8.3 Three responses raised a number of comments/concerns and these are given below:

- Central Motorway Police Group (CMPG) - Association of Chief Police Officers noted the motorway environment presents a difficult and dangerous place for police. They also noted that safety should be a high priority and any deviations from the M42 Managed Motorways Pilot must involve additional consultation. The Highways Agency response noted that safety continues to be a high priority for the Managed Motorway schemes and it recognises there are differences between the M42 pilot and the current design. Although the overall objective of the BB3MM is to reduce congestion this scheme aims to maintain and, where possible, improve current safety standards. The design of the BB3MM has been risk assessed and it has been concluded that the scheme is expected to meet its safety objective. It was also noted that throughout the design of the scheme key stakeholders, including CMPG, have been consulted on key design issues such as the location of Emergency Refuge Areas, speed enforcement and the location of signs and signals.

- Sandwell Metropolitan Borough Council advised that ongoing liaison needs to continue with local residents living alongside the route of BB3MM who are directly affected by the scheme proposals. They felt it was important that continued consultation addressed environmental and noise issues. The Highways Agency response recognised that working with the local residents and communities is key to the delivery of the scheme. A number of public exhibitions have been held to involve the public in the scheme design and development. This has presented the opportunity for any residents to raise any concerns and has allowed the Highways Agency to address any concerns.

- Staffordshire Fire and Rescue Service noted, that, as an Emergency Service responding to incidents on the motorway, they had concern over their response vehicles gaining access to

8.4 The Highways Agency 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 and M6 Birmingham Box schemes the Department for Transport has decided that variable mandatory speed limits, and where specified hard shoulder running; that together form Phase 3 of the Birmingham Box Managed Motorway scheme should be implemented.

9. Guidance

9.1 The consultation pack issued by the Highways Agency to stakeholders on 2nd April 2012 contained information on the operation of variable mandatory speed limits and hard shoulder running on the M6 Junctions 5-8. This consultation pack was also published on the Highways Agency website. Stakeholders included members of the emergency services, road user groups and vehicle recovery operators. Stakeholders have and will continue to receive 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. Prior to the commencement of the scheme operation road users will be made aware of it through the media and press releases.

10. Impact

10.1 The impact on business, charities or voluntary bodies, and the public sector is that Managed Motorways, through the introduction of variable mandatory speed limits and hard shoulder running where appropriate, 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.

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 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to ensure that Stakeholders receive updates and news on the scheme implementation and operation. Results of the scheme will also be made available to stakeholders.

11.3 The basis for the final decision on what action to take to assist small business will be undertaken through consultation with stakeholders. It is however expected that the proposed measures will not impose any new or increased burden upon small businesses.

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 on traffic flows, accidents and environmental factors. 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 Rob Edwards at Highways Agency Tel: +44 (0) 121 6788518 or e-mail: Rob.Edwards@highways.gsi.gov.uk