EXPLANATORY MEMORANDUM TO

THE M621 MOTORWAY (OFF SIDE LANE PROHIBITION DISAPPLICATION) (NO. 3) REGULATIONS 2023

2023 No. 1111

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.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument revokes and replaces the M621 Motorway (off side lane prohibition disapplication) Regulations 2023 ('First SI'), due to an error identified in regulation 1(3) of the First SI after it was made on 11th July 2023.

2.2 This instrument also revokes and replaces the M621 Motorway (Off Side Lane Prohibition Disapplication) (No. 2) Regulations 2023 ('Second SI'), due to an error identified in regulation 1(3) of the Second SI after it was made on 19th July 2023.

2.3 This instrument also disapplies regulation 12(2) of the Motorways Traffic (England and Wales) Regulations 1982 ('Regulation 12(2)') in relation to specified lengths of the westbound carriageway of the M621 motorway. Regulation 12(2) prohibits certain vehicles from using the off side lane (right hand lane) of a motorway carriageway with three or more lanes, where all lanes are open for use by traffic proceeding in the same direction.

2.4 This instrument also revokes the Motorways Traffic (M621 Motorway) Regulations 1999 ('1999 Regulations').

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 An error in regulation 1(3) of the First SI was identified after it was made. The coming into force provision in regulation 1(3) stated the year (2023) but did not include the intended day and month (1st December).

3.2 The Department endeavoured to correct this error by making the Second SI, which would revoke and replace the First SI. Regrettably, and as identified by the JCSI, regulation 1(3) of the Second SI also contained an error. The error concerned the coming into force of the revocation provision (regulation 6). Regulation 1(3) stated that regulation 6 would come into force on 10th August 2023, with 'all other regulations' coming into force on 1st December 2023. 'All other regulations' inadvertently includes regulation 1(3), which renders the legislation inoperable.

3.3 This instrument revokes and replaces the First SI and the Second SI. Regulation 1 of this instrument (which stipulates the coming into force dates of each regulation) and regulations 5 and 6 (which revoke the First SI and the Second SI) will come into force the day after the instrument is laid. The Department recognises that this timeframe

breaches the 21 day rule, which requires that instruments subject to the negative procedure come into force no less than 21 days after they are laid before Parliament. However, we believe this breach is justified by the overriding need to minimise any confusion surrounding the operative status of the First SI and the Second SI and around which vehicles are permitted to drive in the off side lane of the specified lengths of road. The remaining regulations of this instrument will come into force on 1st December 2023.

3.4 This instrument is being published under the free issue procedure, as it is being made in consequence of the errors described above.

4. Extent and Territorial Application

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

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England. Only those sections of motorway specified in regulation 2 of the instrument 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 Section 17 of the Road Traffic Regulation Act 1984 permits the Secretary of State to make regulations governing the use of special roads (primarily motorways).

6.2 This instrument disapplies Regulation 12(2) in relation to specified lengths of the westbound carriageway of the M621 motorway. Regulation 12(2) prohibits certain types of vehicles (such as heavy commercial vehicles and vehicles towing a trailer) from using the off side lane. This measure will come into effect on 1st December 2023.

6.3 The 1999 Regulations already disapply Regulation 12(2) between junctions 6 and 3 of the westbound carriageway of the M621. This instrument revokes those regulations from 1st December 2023, and extends the disapplication of Regulation 12(2) from junction 6 to junction 1 of the M621 westbound, to incorporate traffic management requirements for an improvement scheme for the M621.

6.4 This instrument revokes and replaces the First SI and the Second SI due to errors contained in those instruments. As explained above, the provisions revoking those instruments will come into force the day after the instrument is laid.

7. Policy background

What is being done and why?

7.1 The M621 motorway serves the centre of Leeds and surrounding areas. Modifications are being made to the road layout as part of the M621 Junctions 1 to 7 Improvement Scheme ('Improvement Scheme'). The Improvement Scheme will provide capacity and technology upgrades to the full M621 corridor. The road layout modifications will cause all vehicles merging onto the M621 at junction 3 westbound to join the off side lane, putting some types of vehicles (such as HCVs and those towing a trailer) in

contravention of Regulation 12(2). To avoid this situation, this instrument will disapply Regulation 12(2) from junction 6 to junction 1 of the M621 westbound.

Explanations

What did any law do before the changes to be made by this instrument?

7.2 Regulation 12(2) prohibits certain vehicles from using the off side lane of a motorway.

7.3 The 1999 Regulations disapply Regulation 12(2) between junctions 6 and 3 of the westbound carriageway of the M621 motorway.

Why is it being changed?

7.4 As a result of the Improvement Scheme, vehicles merging onto the westbound carriageway of the M621 at junction 3 will join the offside lane. This will cause some vehicles (such as HCVs and those towing a trailer) to be in contravention of Regulation 12(2). To avoid this situation, it is necessary for Regulation 12(2) to be disapplied in relation to this stretch of motorway, extending the current disapplication of Regulation 12(2) from junction 6 to junction 1 of the M621 westbound. This will allow for the safe merging of all vehicles.

What will it now do?

7.5 This instrument revokes the 1999 Regulations and disapplies Regulation 12(2) for specified lengths of the M621 between junction 6 and junction 1. This will enable all vehicles to use the off side lane from junction 6 to junction 1 of the M621 westbound.

7.6 This instrument revokes the First SI and the Second SI, due to errors contained in those instruments.

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 revokes the 1999 Regulations. The provision made in those 1999 Regulations (to disapply Regulation 12(2) for parts of the M621 motorway) will be included in this instrument.

9.2 This instrument revokes and replaces the First SI and Second SI, due to errors made in those instruments.

10. Consultation outcome

10.1 A consultation took place between 6th March 2023 and 3rd April 2023, prior to making the First SI. A consultation pack was issued to 198 consultees including local councillors, MPs, members of the emergency services, local businesses, schools and other affected stakeholders. The consultation was also open to public participation through the National Highways scheme webpage.

10.2 Only one response was received during the consultation period (from Historic England). They stated that after reviewing the proposals they did not wish to submit any comments. The post-consultation report concluded that this instrument should be introduced.

10.3 The scheme webpage and consultation details can be accessed using the following link: https://nationalhighways.co.uk/our-roads/yorkshire-and-north-east/m621-junctions-1-to-7/[1]. Hard copies of the consultation documents are available for inspection or can be collected from the offices of National Highways Limited, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.

10.4 Given this instrument revokes and replaces the First SI and the Second SI and has the same policy and legislative effect as those instruments, no further consultation has been undertaken.

11. Guidance

11.1 This instrument does not require any guidance.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

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

12.3 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant impact on businesses. The de minimis assessment undertaken by National Highways Limited concluded that the equivalent annual net direct cost to business of compliance with these Regulations would be nil.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision not to take action to assist small businesses is that the instrument will not impose any new burdens on them.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to conduct a Post Opening Project Evaluation ('POPE') of the scheme 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 (its effectiveness on traffic flows, accidents and environmental factors) against what it is delivering at the time of the evaluations.

15. Contact

15.1 Sal Hopkinson at National Highways Limited, telephone 0300 470 2452 or email sal.hopkinson@nationalhighways.co.uk can be contacted with any queries regarding the instrument.

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

[1] https://nationalhighways.co.uk/our-roads/yorkshire-and-north-east/m621-junctions-1-to-7/.

15.3 Richard Holden MP, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.