EXPLANATORY MEMORANDUM

THE MOTORWAYS TRAFFIC (M42 MOTORWAY) (JUNCTIONS 10 TO 11 NORTHBOUND) (RESTRICTION ON USE OF OFFSIDE LANE) REGULATIONS 2009

2009 No. 1814

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 These Regulations will introduce a restriction on heavy commercial vehicles (goods vehicles with an operating weight exceeding 7.5 tonnes) from driving in the right hand or off side lane of a length of the northbound carriageway of the M42 Motorway between Junction 10 and Junction 11 from 0700 hours to 1900 hours.

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 section 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 special road.

4.2 The Motorways Traffic (England and Wales) Regulations 1982 (S.I.1982/1163) sets out what can and cannot be done, and by whom, on various parts of a motorway in England and Wales. They provide that heavy commercial vehicles are prohibited from using the right hand or offside lane of a motorway carriageway which has three or more traffic lanes at any place where all the lanes are open for use by traffic proceeding in the same direction. The M42 Motorway northbound carriageway between Junctions 10 and 11 has only two traffic lanes. These Regulations extend the prohibition so that heavy commercial vehicles cannot use the right hand or off side lane of a length of the northbound carriageway of the M42 Motorway from the hours of 0700 hours to 1900 hours.

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. A consultation paper was issued on 3 April 2008 for a 12-week consultation.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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

7.1 Regulation 12(2) of the Motorways Traffic (England and Wales) Regulations 1982 restricts the use of the right hand or off side lane of any motorway which has three or more traffic lanes at any place where all the lanes are open for use by traffic proceeding in the same direction.

7.2 The M42 between Junctions 10 and 11 is a two-lane length of motorway with a prolonged uphill gradient. Queues and delays are made worse by heavy commercial vehicles overtaking in the off side lane and this can effect journey times of other road users. Following ministerial approval, the restriction of the use of the off side lane by heavy commercial vehicles was introduced as a trial, authorised under an experimental traffic regulation order, entitled "The M42 Motorway (Junctions 10 – 11, Warwickshire) (Restriction on Use of Right Hand or Off Side Lane) (Experimental) Order 2006" ("the Experimental Order"), made under the provisions of sections 9(1) to (3) and 10(1) and (2) of the Road Traffic Regulation Act 1984. The Experimental Order came into force on 9 April 2006 and prohibited any heavy commercial vehicles from using the right hand or off side lane of a specified length of the northbound carriageway between the hours of 07.00 and 19.00. This order lasted for 18 months and expired on 9 October 2007.

8. Consultation outcome

8.1 Discussions were held with the Road Haulage Association (RHA) and the Freight Transport Association (FTA), prior to the introduction of the experimental order. Both these organisations were critical of the proposed restriction at meetings held with representatives of the Highways Agency.

8.2 Road user groups and other interested parties, including the emergency services and local authorities, were also consulted with regard to the Regulations between 3 April 2008 and 26 June 2008. Leicestershire County Council and Leicestershire Constabulary returned responses of no objections and no further comment respectively. The RHA's Midlands and Western Region's response concluded that the Regulations should not be made as there would be negligible savings in journey times for light vehicles and a minimal effect on heavy goods vehicles. In addition they were concerned about a 'patchwork' of overtaking bans developing across the country as similar restrictions are being trialled elsewhere. The FTA did not provide a written response to the consultation.

8.3 An assessment of journey times carried out by the Highway Agency prior to the introduction of the restriction and further assessment carried out after the introduction of the experimental order showed that the effect of the restriction was a reduction in journey times for light vehicles and a reduction in journey times for heavy commercial vehicles at all times other than the morning peak when their journey times remained unchanged.

8.4 The Highways Agency's response to RHA's Midlands and Western Region emphasised the findings of the survey into journey times, which showed benefits for

all vehicles in the form of reduced journey times and no detrimental effects on the journey times for heavy commercial vehicles. The Highways Agency acknowledge that further monitoring is desirable and following the making of the Regulations such monitoring will be undertaken to further identify trends over a longer and more representative period. Comparisons of journey times will also be made with other locations on the motorway and trunk road network where similar restrictions have been introduced.

8.5 Any current or future proposals for similar restrictions will be carefully considered and would only be introduced after suitable study and monitoring has taken place and where the road conditions are such that such a restriction would have beneficial effects for traffic using that stretch of road i.e. on two-lane motorways with long uphill gradients and no junctions.

8.6 The Highways Agency will continue to keep both the RHA and FTA informed of results as more data is collected.

9. Guidance

9.1 A press notice will be issued announcing that Regulations to make a permanent restriction have been made, following the success of the trial. Appropriate traffic signs will be displayed on the northbound carriageway of the M42. A letter will be sent out to all consultees informing them that the Regulations have been made and it will include the website address for the Office of Public Sector Information where the Regulations can be viewed.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector will not change as all relevant costs were already undertaken when the Experimental Order was initially trialled from 9 April 2006 for 18 months. There will be no further costs incurred by the public sector in making these Regulations.

11. Regulating small business

11.1 The effect of this legislation is not expected to have an adverse impact on small business. Indeed, results of journey time monitoring obtained so far indicate a reduction in journey times for light vehicle drivers (up to 7.5 tonnes) and at best a beneficial effect and at worst a neutral effect on journey times for heavy commercial vehicle operators.

12. Monitoring and review

12.1 The purpose of the restriction is to improve journey times. During the trial the initial results showed the restriction had a beneficial effect on traffic flows and journey times. As with all such new schemes on the trunk road and motorway network, routine monitoring will continue once the Regulations comes into force so that its longer term effects can be established.

13. Contact

13.1 Stephen Edwards at the Highways Agency (Telephone number: GTN 6189 8360 or e.mail: stephen.edwards@highways.gsi.gov.uk) is the contact for questions about this instrument.