

**EXPLANATORY MEMORANDUM TO**  
**THE MOTORWAYS TRAFFIC (ENGLAND AND WALES) (AMENDMENT)**  
**(ENGLAND) REGULATIONS 2015**

**2015 No. 392**

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 amend the Motorways Traffic (England and Wales) Regulations 1982 (S.I. 1982/1163) (“the 1982 Regulations”) to define the concept of, and provide for the use of, an “emergency refuge area” which is an emergency lay-by beside a motorway to which the Regulations governing the use of a normal hard shoulder apply.

**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 which include motorways.

4.2 The Regulations provide for the operation of emergency refuge areas on motorways. They amend the 1982 Regulations so as to insert into those Regulations 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.

**5. Territorial Extent and Application**

5.1 This instrument extends to England and Wales but applies in relation 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**

• *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 a number of smart motorway schemes. The introduction of these smart motorway schemes 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.

7.2 A key part of smart motorway schemes is the provision of emergency refuge areas which provide an area for motorists to stop in an emergency where there is no hard shoulder. The 1982 Regulations set out a number of measures which regulate the use of vehicles on motorways, one of which is prohibition of the use of a hard shoulder. Currently, the 1982 Regulations do not contain reference to emergency refuge areas and accordingly, so that they may be used in relation to smart motorway schemes, these Regulations amend the 1982 Regulations to include reference to an emergency refuge area and provide for their use.

## **8. Consultation outcome**

8.1 All previous smart motorway schemes had consulted on the implementation of emergency refuge areas. However, these consultations considered the implementation of emergency refuge areas only as part of the individual scheme, and the resulting regulations only modified the 1982 Regulations for the specific section of motorway under consideration, rather than permanently amending the 1982 Regulations. Consequently, every new smart motorway consultation (and the previous version – managed motorways) had to repeat the consultation exercise with regard to the implementation of emergency refuge areas. It was therefore decided to consult on permanently amending the 1982 Regulations as part of the next consultation of a smart motorway scheme.

8.2 A formal consultation on the proposal to implement variable mandatory speed limits as part of the M1 Junctions 32 to 35a smart motorway scheme took place between December 2012 and February 2013. This consultation included the implementation of emergency refuge areas, but in this case the consultation explicitly stated that the proposal was to permanently amend the 1982 Regulations on a national basis, rather than making an amendment specific to the M1 between junctions 32 and 35a. However, that scheme has not progressed as fast as anticipated and therefore, a separate statutory instrument has been prepared. The consultation involved sending the consultation document to over 70 stakeholders including representative organisations of those affected and individual businesses. Because the proposed changes with regard to emergency refuge areas would apply nationally, the document was sent to a range of national organisations including motoring organisations, the recovery industry and organisations representing both local and central government as well as bodies such as the South Yorkshire metropolitan authorities. In addition, the consultation document was placed on the Highways Agency's web site and contains a list of all consultees. Although consultation took place as part of a specific scheme, those consulted in relation to the amendment to the 1982 Regulations were national organisations and, accordingly, are the same bodies as would have been consulted had a separate consultation taken place. Accordingly, although the amendments will no longer be made in relation to a specific scheme, there would be no purpose in re-consulting as the previous consultation already reached the relevant organisations. After consultation with the National Assembly for Wales, it was decided that these Regulations should apply to England only. Although many of the national organisations consulted as part of this consultation covered the United Kingdom, none were specifically Welsh.

8.3 A total of twenty seven responses were received to the consultation. Fifteen of these were from representative organisations and twelve from members of the public. None of the responses received made reference to the proposal to amend the 1982 Regulations on a national basis with regard to emergency refuge areas. None of the responses from individual members of the public made any reference to refuge areas.

Among the representative organisations with nationwide interests who responded were:

- The Road Haulage Association
- National Express plc
- Chartered Institute of Highways and Transportation (CIHT)

The CIHT made reference to emergency refuge areas as forming part of a smart motorway, but their comments concerned smart motorways strategy rather than aspects of the design or use of emergency refuge areas. The CIHT made no comment on the legislative proposals. Other nationally representative bodies did not comment on emergency refuge areas at all.

Among locally representative bodies only two organisations commented about emergency refuge areas. These were the South Yorkshire Safer Roads Partnership and South Yorkshire Public Health. Comments made concerned the design of emergency refuge areas or the proposed intervals between refuge areas on smart motorways and no comments were raised on the legislative aspects.

8.4 The Highways Agency has considered all the responses to the consultation and carried out an analysis of those responses. Respondents to the consultation made few observations about emergency refuge areas and no observations about the proposed change to the 1982 Regulations. The post consultation report is available at <https://www.gov.uk/government/consultations/m1-junctions-32-to-35a-managed-motorway-scheme>.

## **9. Guidance**

9.1 The consultation pack issued by the Highways Agency to stakeholders on 17<sup>th</sup> December 2012 contained information on the proposed change to the 1982 Regulations. 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 implementation of specific schemes that utilise emergency refuge areas. 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 There is no impact on the costs of business or the voluntary sector. The measure aims to reduce the impact of accidents or breakdowns and reduce driver stress.

## **11. Regulating small business**

11.1 The legislation applies to small business. It is expected that the proposed measures will not impose any new or increased burden upon small businesses.

## **12. Monitoring & review**

12.1 The operation of emergency refuge areas is established practice. Emergency refuge areas were first implemented as part of the M42 J3a-7 Active Traffic Management scheme in 2006 and have been part of smart motorway schemes implemented subsequently.

## **13. Contact**

13.1 If you have any queries regarding the Regulations please contact Andy Kirk at Highways Agency Tel: +44 (0)121 678 8745 or e-mail: [andy.kirk@highways.gsi.gov.uk](mailto:andy.kirk@highways.gsi.gov.uk)