

EXPLANATORY MEMORANDUM TO
THE M5 MOTORWAY (JUNCTIONS 4A TO 6) (VARIABLE SPEED LIMITS)
REGULATIONS 2017

2017 No. 77

1. Introduction

- 1.1 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 enable the operation of variable speed limits on the M5 motorway between junctions 4a and 6. Variable mandatory speed limits are required as part of the smart motorway upgrade to increase capacity and smooth the flow of traffic. This allows for more reliable journey times as well as fewer accidents, less noise and pollution.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These Regulations have been made under section 17 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) 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 Section 134(2) of the 1984 Act requires the Secretary of State to consult with representative organisations as he sees fit prior to making regulations under that Act.
- 4.3 The Traffic Signs Regulations and General Directions 2016 (S.I 2016/362) enable certain traffic signs to be used to convey information about variable mandatory speed limits on motorways.
- 4.4 In addition, traffic signs authorised by the Secretary of State under section 64 of the 1984 Act 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.

- 4.5 The Motorways Traffic (England and Wales) Regulations 1982 (S.I. 1982/1163), as amended, govern the use of motorways in England and Wales and the provision of emergency refuge areas.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England. Only those sections of motorway specified in the Schedule to the Regulations 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 Highways England Company Limited (“Highways England”) was set up by Government on 1st April 2015 to operate and improve the strategic road network in England. Highways England’s primary role is to deliver a better service for road users and to support a growing economy. The operation of variable mandatory speed limits between junctions 4a and 6 of the M5 is part of a wider scheme (“the M5 Scheme”) and is included in Highways England’s programme to modernise England’s motorways by providing more capacity and better connections. This section of motorway is currently a dual three lane motorway. The M5 Scheme will upgrade the motorway between junctions 4a and 6 to a smart motorway by utilising the hard shoulder as a permanent running lane (for all lane running) and installing technology to manage traffic.
- 7.2 The only part of the M5 Scheme provided for in this instrument is the introduction of variable mandatory speed limits between junctions 4a and 6. The introduction of all lane running between these junctions needs no further new legislation. The use of variable mandatory speed limits is essential to operating a smart motorway. Variable mandatory speed limits allow Highways England to adjust the speed limit on a motorway during busy periods. This controls the flow of vehicles and helps to prevent traffic grinding to a halt. It is expected that the smart motorway will:
- reduce congestion;
 - smooth traffic flows;
 - provide more reliable journey times;
 - reduce the severity of accidents; and
 - increase and improve the quality of information to road users.
- 7.3 These benefits have been proven on existing smart motorways on the M25, M42 and M6 junctions 4-13. The variable mandatory speed limits introduced by this instrument will, as part of the M5 Scheme, bring these benefits to this strategically important, and currently congested, section of motorway.

8. Consultation outcome

- 8.1 A formal consultation exercise was originally undertaken by the Highways Agency (then an Executive Agency of the Department for Transport) for the M5 Scheme as a whole. The 6 week consultation period began on 3rd March 2014 and ended on 14th April 2014. Since then a programme of works has been undertaken including the construction of a central reserve concrete safety barrier, the provision of drainage facilities and establishing verges. The current intention is that the M5 Scheme will be completed and open for traffic in the Spring of 2017.
- 8.2 The consultation document was sent to 126 stakeholders including affected representative organisations and individual businesses. Stakeholder groups comprised:
- government and local government bodies;
 - local members of parliament;
 - core responders and legal groups;
 - statutory undertakers;
 - environmental organisations;
 - road user and safety organisations;
 - vehicle recovery operators;
 - business organisations;
 - media organisations; and
 - transport organisations.
- 8.3 Twenty responses were received in total; two responses were from consultees, the Road Haulage Association and the Hereford and Worcestershire Fire and Rescue Service, with eighteen from non-affiliated individuals. Three respondents provided further comments.
- 8.4 A detailed analysis of the outcome, including a full list of consultees has been published on the GOV.UK website:
- <https://www.gov.uk/government/consultations/m5-junctions-4a-to-6-smart-motorway-variable-speed-limits>.
- 8.5 Comments received from respondents were wide-ranging and included support for the M5 Scheme in general and support for the introduction of variable mandatory speed limits on this section of motorway. No comments raised any concerns specifically about the introduction of variable mandatory speed limits.
- 8.6 A full traffic model was developed for the M5 Scheme which identified the need for congestion relieving techniques to be implemented particularly as this section of the M5 has a high percentage of freight transport. These techniques include those associated with managed motorways (now known as ‘smart motorways’) which involve the operation of variable mandatory speed limits as introduced by this instrument.
- 8.7 Prior to development of the M5 Scheme, options to improve this section of the M5 were identified and assessed, including a comparison of conventional widening with managed motorway techniques. The assessment concluded that implementing managed motorways on the M5 would provide the highest benefit to cost ratio and would deliver similar benefits to the widening option whilst being significantly more affordable.

- 8.8 An Environmental Assessment has been carried out for the M5 Scheme in accordance with the Design Manual of Road and Bridges requirements. The assessment determined that the M5 Scheme would not have any significant effects on the environment. A slight beneficial effect is anticipated for noise and vibration due to resurfacing of the road with low noise surfacing and provision of an environmental barrier adjacent to residential areas along the scheme where required.
- 8.9 The completed M5 Scheme is anticipated to have a neutral effect on air quality, cultural heritage, landscape, geology and soils, community, private assets, road drainage and the water environment.
- 8.10 A minor adverse effect is anticipated for nature conservation as a result of an overall minor loss of habitats associated with the construction of emergency refuge areas and gantries.
- 8.11 Enforcement, including by the use of CCTV cameras, is carried out by the West Mercia and Warwickshire Safety Camera Partnership which is the Fixed Penalty Office (FPO). At the FPO, the offending drivers are identified and appropriate action taken under the Road Traffic Offenders Act 1988.
- 8.12 The Highways Agency 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, Birmingham Box and M25 schemes the Department for Transport has decided that variable speed limits should be implemented on the M5 between junction 4a and junction 6.
- 8.13 The Highways Agency responded in writing to all the issues and concerns raised by consultation respondents.

9. Guidance

- 9.1 The consultation pack issued by the Highways Agency to stakeholders on 3rd March 2014 contained information on the operation of variable mandatory speed limits on the M5 between junctions 4a and 6. This consultation pack was also published on the GOV.UK website. Stakeholders included members of the emergency services, road user groups, local authorities and vehicle recovery operators. Stakeholders will continue to receive updates and news on the M5 Scheme implementation, with particular consideration given to the effects of the scheme on local residents, the travelling public and businesses, through Highways England's website, media and press releases.

10. Impact

- 10.1 The impact on business, charities, voluntary bodies and the public sector is that variable speed limits will benefit the motorist by helping to reduce congestion and provide more reliable journey times. Their introduction aims to reduce the severity of accidents, increase and improve the quality of driver information and reduce driver stress.
- 10.2 The impact on the public sector is the same as the impact on businesses, charities and voluntary bodies.
- 10.3 An impact assessment has not been prepared for these Regulations as no impact on the costs of business, charities, voluntary bodies or the public sector is foreseen.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 The introduction of variable mandatory speed limits will not have an adverse effect on small businesses. The Regulations do not impose any new or increased burden. Highways England will continue to provide targeted information on the M5 scheme as a whole to organisations within the surrounding area, including small businesses.

12. Monitoring & review

- 12.1 The operation of the variable mandatory speed limits will be monitored and assessed to establish its effectiveness (as part of the M5 Scheme) on traffic flows, accidents and environmental factors. There will be a Post Opening Project Evaluation of the M5 Scheme in the first and fifth years after it has opened. The purpose of the Post Opening Project Evaluation is to measure the business case aims and benefits of the M5 Scheme against what is actually being delivered in the first and fifth years after opening.

13. Contact

- 13.1 Janice Allen at Highways England Telephone: Tel: +44 (0) 121 687 2564 or email: Janice.Allen@highwaysengland.co.uk can answer any queries regarding the instrument.