

EXPLANATORY MEMORANDUM TO
THE MOTORWAYS TRAFFIC (SCOTLAND) (AMENDMENT) (NO.2)
REGULATIONS 2004

2004 No.3261 (S.12)

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These new regulations amend the restriction on the use of the right-hand lane of a motorway carriageway which has three or more traffic lanes at any place where all the lanes are open for use.

2.1.1 The existing prohibition in relation to goods vehicles is extended to include such vehicles having a maximum laden weight exceeding 3.5 tonnes but not exceeding 7.5 tonnes to which a speed limiter must be fitted.

2.1.2 The existing prohibition in relation to Passenger vehicles is extended to include such vehicles constructed or adapted to carry more than eight seated passengers in addition to the driver having a maximum laden weight not exceeding 7.5 tonnes and to which a speed limiter must be fitted.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Section 17(2) and (3) of the Road Traffic Regulation Act 1984 empower the Secretary of State to make regulations with respect to the use of special roads generally. The Motorways Traffic (Scotland) Regulations 1995 (S.I.1995/2507 (S.183)) set out, pursuant to these powers, what can and cannot be done, and by whom, on various parts of a motorway in Scotland.

4.1.1 In particular regulation 11 prohibits certain classes of vehicle from using the right-hand 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.

4.1.2 Goods vehicles with a maximum laden weight exceeding 7.5 tonnes and passenger vehicles constructed or adapted to carry more than eight seated passengers in addition to the driver having the same maximum laden weight are already prohibited vehicles for the purpose of regulation 11.

4.2 Directive 2002/85/EC of the European Parliament and of the Council (OJ No. L57, 4.12.2002, p.327) amends Council Directive 92/6/EC on the installation and use of speed limitation devices for certain categories of motor vehicles in

the Community (OJ No. L57, 2.3.1992, p.27). The amending Directive extends, subject to powers to derogate, the class of goods vehicle and passenger vehicle to which speed limiters must be fitted. This Directive is implemented by way of the Road Vehicles (Construction and Use) (Amendment) (No.2) Regulations 2004 (S.I.2004/2102) which come into force on 1st January 2005; being the date on which it is intended that the amendments to the motorways traffic regulations for Scotland shall come into force.

4.3 Section 134(2) of the Road Traffic Regulation Act 1984 requires that before making regulations under the Act, the Secretary of State must consult with representative organisations as he sees fit. The Department for Transport issued a consultation paper on 22nd September 2004 for a 10-week consultation.

4.4 These regulations are subject to negative resolution procedures.

5. Extent

This instrument applies to Scotland only.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 For safety and congestion reasons goods vehicles with a maximum laden weight exceeding 7.5 tonnes and passenger vehicles constructed or adapted to carry more than eight seated passengers in addition to the driver with the same maximum laden weight are already prohibited from using the right-hand lane of three or more lane motorways. When fitted with a speed limiter these vehicles are only capable of achieving 56 and 62 mph respectively.

7.1.1 For the same reasons it was considered appropriate to extend the prohibition to the new class of goods vehicle and passenger vehicle which must be speed limited pursuant to Directive 2002/85/EC as and when a vehicle is required to be fitted with a speed limiter in accordance with the Road Vehicles (Construction and Use) Regulations 1986. When fitted with a speed limiter such vehicles will also be unable to exceed 56 and 62 mph respectively.

7.2 Public interest has been minimal as demonstrated by the small response to our consultation. Of 170 organisations with an interest consulted, 31 responded (7 with no comments). All respondents supported the proposal on the restriction of the use of the right hand lane of the motorway. All but 6 agreed with our proposed timing for implementation and although we gave careful consideration to the points raised by the 6 that disagreed we did not consider that any new facts, issues or evidence were raised that should dissuade us from proceeding with the original proposals in the consultation.

7.3 These amendments are not considered to be politically or legally important.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no significant impact on business, charities or voluntary bodies. An RIA was published as part of the public consultation on Directive 2002/85/EC for speed limiters.

9. Contact

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