

**2004 No.3261 (S.12)**

**ROAD TRAFFIC**

**SPECIAL ROADS**

**The Motorways Traffic (Scotland) (Amendment) (No.2)  
Regulations 2004**

<i>Made</i> - - - -	<i>9th December 2004</i>
<i>Laid before Parliament</i>	<i>10th December 2004</i>
<i>Coming into force</i> - -	<i>1st January 2005</i>

The Secretary of State for Transport, in exercise of the powers conferred by section 17(2) and (3) of the Road Traffic Regulation Act 1984(a), and after consulting with representative organisations in accordance with section 134(2) of that Act(b), hereby makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Motorways Traffic (Scotland) (Amendment) (No.2) Regulations 2004 and shall come into force on 1<sup>st</sup> January 2005.

(2) These Regulations extend to Scotland only.

**Preliminary**

2. The Motorways Traffic (Scotland) Regulations 1995(c) shall be further amended in accordance with the following provisions of these Regulations.

**Amendments relating to use of right-hand lane**

3.—(1) Regulation 11 shall be amended as follows.

(2) In paragraph (1)—

(a) after sub-paragraph (a) insert—

“(aa) a goods vehicle—

(i) having a maximum laden weight exceeding 3.5 tonnes but not exceeding 7.5 tonnes, and

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(a) 1984 c.27. Section 17(2) was amended by the New Roads and Street Works Act 1991 (c.22) (“the 1991 Act”), Schedule 8, paragraph 28 and by the Road Traffic Act 1991 (c.40), Schedule 4, paragraph 25 and Schedule 8. The function of the Secretary of State under section 17(2) of making regulations with respect to any particular special road, so far as exercisable in or as regards Scotland, is transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), article 2 and Schedule 1.

(b) Section 134(2) was amended by the Roads (Scotland) Act 1984 (c.54), Schedule 7, paragraph 4 and by the 1991 Act, Schedule 8, paragraph 77.

(c) S.I. 1995/2507; relevant amending instrument is S.I. 1995/3070.

- (ii) to which regulation 36B of the Road Vehicles (Construction and Use) Regulations 1986(a) applies or would apply but for paragraph (14)(a) or (b) of that regulation;” and
- (b) after sub-paragraph (b) insert—
  - “(bb) a passenger vehicle—
    - (i) which is constructed or adapted to carry more than eight seated passengers in addition to the driver, the maximum laden weight of which does not exceed 7.5 tonnes, and
    - (ii) to which regulation 36A of the Road Vehicles (Construction and Use) Regulations 1986 (Speed limiters) applies or would apply but for paragraph (13)(a) or (b) of that regulation;”.

Signed by authority of the Secretary of State for Transport

9th December 2004

*David Jamieson*  
Parliamentary Under Secretary of State,  
Department for Transport

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(a) S.I. 1986/1078; relevant amending instruments are S.I. 1988/271, 1991/1527, 1993/3048, 1994/329, 1995/1458, 1996/2064, 1997/1340, 2003/1946 and 2004/2102.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Motorways Traffic (Scotland) Regulations 1995 (“the 1995 Regulations”) which regulate the use of motorways in Scotland.

Regulation 11 of the 1995 Regulations prohibits certain classes of vehicle from using the right-hand lane of a motorway carriageway which has three or more lanes at any place where all the lanes are open for use by traffic proceeding in the same direction.

Regulation 11(1)(aa) is inserted so that a goods vehicle having a maximum laden weight exceeding 3.5 tonnes but not exceeding 7.5 tonnes and to which regulation 36B of the Construction and Use Regulations 1986 (“the 1986 Regulations”) applies, or would apply but for paragraph (14)(a) or (b) of that regulation, is a prohibited vehicle for the purpose of regulation 11.

Regulation 11(1)(bb) is inserted so that a passenger vehicle which is constructed or adapted to carry eight or more seated passengers in addition to the driver, the maximum laden weight of which does not exceed 7.5 tonnes and to which regulation 36A of the 1986 Regulations applies, or would apply but for regulation (13)(a) or (b) of that regulation, is also a prohibited vehicle for the purpose of regulation 11.

The effect of these amendments is to widen the range of both goods vehicles and passenger carrying vehicles prohibited from using the right-hand lane of a motorway carriageway which has three or more lanes at any place where all the lanes are open for use, based on whether or not a vehicle is required to be fitted with a speed limiter. The prohibition applies regardless of whether a vehicle is —

- (a) being taken to a place where a speed limiter is to be installed, calibrated, repaired or replaced; or
- (b) completing a journey in the course of which the speed limiter has accidentally ceased to function.

A regulatory impact assessment has not been produced for this instrument as it has no significant impact on business, charities or voluntary bodies. A regulatory impact assessment was published as part of the public consultation on Directive 2002/85/EC of the European Parliament and of the Council (OJ No. L57, 4.12.2002, p.327), which 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 is being implemented by way of the Road Vehicles (Construction and Use) (Amendment) (No.2) Regulations 2004 (S.I. 2004/2102) which come into force on 1<sup>st</sup> January 2005.

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**£3.00**

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