

**Explanatory Memorandum to the M4 Motorway (West of Junction 23A (Magor) to East of Junction 29 (Castleton)) (Variable Speed Limits) Regulations 2015**

This Explanatory Memorandum has been prepared by the Department for Economy, Science and Transport and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the M4 Motorway (West of Junction 23A (Magor) to East of Junction 29 (Castleton)) (Variable Speed Limits) Regulations 2015.

Edwina Hart MBE CStJ AM

30 March 2015

## **1. Description**

These Regulations update The M4 Motorway (West of Junction 23A (Magor) to East of Junction 29 (Castleton)) (Variable Speed Limits) Regulations 2011 [2011 No.94 (W.19)] (the 2011 Regulations). An audit has found minor errors in the scheme length descriptions in the schedule to the 2011 Regulations. These Regulations correct those errors.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

There are no matters of special interest to the Constitutional and Legislative Affairs Committee in these Regulations.

## **3. Legislative background**

Section 17(2) and (3) of the Road Traffic Regulation Act 1984 conveys the powers to regulate the use of special roads (such as the M4 motorway) by the making of Regulations. Those functions, except with respect to special roads generally, have been transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

These Regulations will be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

## **4. Purpose & intended effect of the legislation**

The M4 variable speed limit (VSL) is operating in the Newport area. The scheme extends for approximately 12km around the outskirts of Newport and includes both the main carriageway and the entry and exit slip roads. The main element of the scheme is a system of electronic road signs that change dependent on speed and flow of traffic on the M4. This is supported by an automatic enforcement system managed by the Police and the Safety Camera Partnership (Go-Safe). The variable speed aspect has been operating effectively for approximately 3 years.

The 2011 Regulations for the VSL scheme which specifically permits the setting of variable speed limits on the “relevant road” which in turn permits enforcement of any set limit. It was made on the 17 January 2011 and came into force on 21 February 2011. However, an audit found minor errors in the scheme length descriptions in the schedule to the 2011 Regulations, and there are some overlaps between areas covered by the 2011 Regulations and areas covered by other road traffic orders. This discrepancy is making the police and Go-Safe, who perform a management function for prosecutions relating to exceeding speed limits, wary of enforcing the lower speed limits on drivers.

The issues about possible conflicts and overlaps with pre-existing SIs at entry/exit slip roads throughout the VSL scheme should not affect the enforcement of the VSL on the M4 itself. However these issues, if not resolved, may be raised as part of any legal challenge and could be used to try and undermine the validity of the VSL scheme. Our enforcement partners (the police and Go-Safe) are unwilling to enforce compliance while this risk of legal action remains.

Data analysis by officials shows that compliance with the speed limit is gradually diminishing. For example, at a sample location displaying a 50mph setting, approximately 85% of vehicles were driven below the speed camera capture threshold at the start of the scheme. This figure is now approximately 79%. This shows that the full benefits of the scheme are not being realised without the enforcement aspect. In order for our enforcement partners to proceed with confidence, these Regulations correct the errors in the 2011 Regulations.

## **5. Consultation**

Section 134 of the Road Traffic Act 1984 requires consultation with representative organisations Welsh Ministers see fit. Prior to making these Regulations, the Welsh Ministers consulted with Gwent Police, South Wales Police and Go-Safe to ensure they agree with the amendments that address the current discrepancies. These organisations were consulted at all stages of scheme design and implementation. Go-Safe, South Wales Police and Road Safety Support (RSS) have seen and agreed the revised schedule to these Regulations.

As the matters addressed in these Regulations are technical in nature and do not have a substantive impact on other parties, there was no public consultation in this case.

## **6. Regulatory Impact Assessment (RIA)**

No Regulatory Impact Assessment has been conducted for these Regulations. The 2015 Regulations are making technical amendments to the 2011 Regulations, and as such they do not affect the costs and burdens of the VSL scheme on the M4 through Newport.