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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 343**

**ROAD TRAFFIC**

**The M9/A90/M90 Trunk Road (Humbie Rail Bridge to M9 Junction 1a) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012**

*Made* - - - - *12th December 2012*  
*Laid before the Scottish*  
*Parliament* - - - - *14th December 2012*  
*Coming into force* - - *1st February 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 17(2), (3) and (3ZA) of the Road Traffic Regulation Act 1984(1) and all other powers enabling them to do so.

In accordance with section 17(3A)(2) of that Act they have consulted with such representative organisations as they think fit.

**Citation and commencement**

1. These Regulations may be cited as the M9/A90/M90 Trunk Road (Humbie Rail Bridge to M9 Junction 1a) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 and come into force on 1st February 2013.

**Interpretation**

2. In these Regulations—

“the 1995 Regulations” means the Motorways Traffic (Scotland) Regulations 1995(3);

“the M9” means the motorway known by that name;

“motorway” has the same meaning as in the 1995 Regulations;

“relevant road” means the road known as M9/A90/M90 Edinburgh–Fraserburgh Trunk Road, from Humbie Rail Bridge to Junction 1a of the M9.

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(1) 1984 c.27. Section 17(2) was amended by the New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraph 28, by the Road Traffic Act 1991 (c.40), Schedule 4, paragraph 25 and Schedule 8, paragraph 1, by the National Parks (Scotland) Act 2000 (asp 10), schedule 5, paragraph 11 and by the Scotland Act 2012 (c.11), section 21(3). Section 17(3ZA) was inserted by the Scotland Act 2012, section 21(4).  
(2) Section 17(3A) was amended by the Scotland Act 2012, section 21(5).  
(3) S.I. 1995/2507 as amended by S.I. 1995/3070, 1996/2664 and 2004/3261 and S.S.I. 2005/344, 2006/129 and 2006/594.

### Variable speed limits

3.—(1) A person must not drive a vehicle on a section of any of the specified lengths of the relevant road to which a variable speed limit applies at a speed exceeding the applicable variable speed limit.

(2) The section of the specified lengths of the relevant road to which a variable speed limit applies is the section of the road—

- (a) beginning immediately after a relevant speed limit sign indicating a maximum speed limit other than the national speed limit; and
- (b) ending immediately after—
  - (i) a relevant speed limit sign indicating that another maximum speed limit applies; or
  - (ii) traffic signs mounted on the same post bearing the words “Variable Speed Limit” and “Ends”.

(3) The applicable variable speed limit is the maximum speed limit indicated by the relevant speed limit sign referred to in paragraph (2)(a)—

- (a) when the vehicle passed that sign; or
- (b) if higher, the maximum speed limit indicated by that sign ten seconds before the vehicle passed it.

(4) For the purposes of this regulation the relevant speed limit sign is to be taken as not indicating any maximum speed limit if, ten seconds before the vehicle passed it, the sign had not indicated any maximum speed limit.

(5) In this regulation—

“hard shoulder” means a part of the road which is adjacent to and situated on the left hand side of the carriageway, when facing in the direction in which vehicles may be driven in accordance with regulation 5 of the 1995 Regulations, and which is designed to take the weight of a vehicle;

“national speed limit” means any prohibition imposed on a road by regulation 3 of the Motorways Traffic (Speed Limit) Regulations 1974(4);

“relevant speed limit sign” means a traffic sign of the type shown in diagram 670 in Schedule 2 to the Traffic Signs Regulations and General Directions 2002(5) which is—

- (a) displayed on a variable message sign which is situated over, on or near any part of a specified length of the relevant road; and
- (b) directed at traffic, on the specified length of road being driven in accordance with regulation 5 of the 1995 Regulations;

“road” includes the adjacent hard shoulder;

“specified lengths of the relevant road” means any of the lengths of the relevant road specified in the Schedule to these Regulations.

### Exemption from variable speed limits

4. No speed limit imposed by virtue of regulation 3 applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(6) when used in accordance with regulation 3(5) of those Regulations.

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(4) S.I. 1974/502.

(5) S.I. 2002/3113 as amended by S.I. 2003/393, 2004/1275, 2005/1670, 2006/2083, 2008/2177, 2011/1040 and 2011/3041.

(6) S.I. 2011/935.

## **Application of 1995 Regulations to the relevant road**

5. In relation to the relevant road the 1995 Regulations apply as if they had been modified as follows—

- (a) in regulation 2(1) (interpretation) as if—
  - (i) in the appropriate places, there were inserted—
    - ““the 2002 Regulations” means the Traffic Signs Regulations and General Directions 2002(7);”;
    - ““actively managed hard shoulder” means the lengths of hard shoulder of the relevant road specified in Schedule 2;”;
    - ““emergency refuge area” means a part of the relevant road which is—
      - (a) adjacent to and situated on the left hand or near side of the actively managed hard shoulder when facing the direction in which vehicles may be driven in accordance with regulation 5; and
      - (b) indicated by a marking of the type shown in diagram 1010 in Schedule 6 to the 2002 Regulations;”;
    - ““permitted vehicle” means a motor vehicle constructed or adapted to carry more than 23 seated passengers (exclusive of the driver);”;
    - ““relevant road” means the road known as the M9/A90/M90 Edinburgh–Fraserburgh Trunk Road, from Humbie Rail Bridge to Junction 1a of the M9;”;
  - (ii) in the definition of “carriageway” after the second occurrence of “motorway” there was inserted “(other than the actively managed hard shoulder)”;
  - (iii) in the definition of “hard shoulder” after “vehicle” there was inserted “(and includes the actively managed hard shoulder)”;
- (b) in regulation 6(2), (3)(a) and (b) (restriction on stopping) as if, in each place where it occurs, for “or in an emergency layby” there was substituted “, in an emergency layby, or emergency refuge area”;
- (c) for regulation 8 (restriction on the use of hard shoulders or emergency laybys) by substituting—

### **“8. Restriction on the use of hard shoulders, emergency laybys or emergency refuge areas**

No vehicle may be driven, moved, stopped or remain at rest on any hard shoulder, emergency layby, or emergency refuge area except in accordance with regulations 6(2) and (3), 8A and 8B.

#### **8A. Use of the actively managed hard shoulder**

(1) A permitted vehicle may drive on the actively managed hard shoulder as if it were a lane of the carriageway.

(2) Paragraph (1) does not apply when on a gantry directly above the actively managed hard shoulder there is displayed a traffic sign of the type shown in diagram 5003 or 5003.1 in Schedule 10 to, or diagram 6031 in Schedule 11 to, the 2002 Regulations.

(3) Paragraph (2) does not apply to a permitted vehicle which is being driven on the actively managed hard shoulder when any of the traffic signs mentioned