

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 6th Report of Session 2022–23

Correspondence:

### M56 Motorway (Junctions 6 to 7) (Variable Speed Limits) Regulations 2022

#### Includes information paragraphs on:

Two instruments related to Covid-19

Draft Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2022

Draft Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2022

Draft Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022

Draft Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022

Russia (Sanctions) (EU Exit) (Amendment) (No. 10) Regulations 2022

Draft School Admission Appeals Code 2022

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### *Secondary Legislation Scrutiny Committee*

The Committee's terms of reference, as amended on 13 May 2021, are set out on the website but are, broadly:

To report on draft instruments published under paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018; to report on draft instruments and memoranda laid before Parliament under sections 8 and 23(1) of the European Union (Withdrawal) Act 2018 and section 31 of the European Union (Future Relationship) Act 2020.

And, to scrutinise –

- (a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;
- (b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

### *Members*

[Baroness Bakewell of Hardington Mandeville](#)

[Lord De Mauley](#)

[Lord German](#)

[Viscount Hanworth](#)

[Lord Hodgson of Astley Abbotts](#) (Chair)

[Rt Hon. Lord Hutton of Furness](#)

[The Earl of Lindsay](#)

[Lord Lisvane](#)

[Lord Powell of Bayswater](#)

[Lord Rowlands](#)

[Baroness Watkins of Tavistock](#)

### *Registered interests*

Information about interests of Committee Members can be found in the last Appendix to this report.

### *Publications*

The Committee's Reports are published on the internet at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/>

### *Committee Staff*

The staff of the Committee are Sarah Jones (Clerk), Philipp Mende (Adviser), Jane White (Adviser) and Emily Pughe (Committee Operations Officer).

### *Further Information*

Further information about the Committee is available at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

### *Contacts*

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is [hlseclegscrutiny@parliament.uk](mailto:hlseclegscrutiny@parliament.uk).

# Sixth Report

## CORRESPONDENCE

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### M56 Motorway (Junctions 6 to 7) (Variable Speed Limits) Regulations 2022

1. Our 5th Report<sup>1</sup> drew the attention of the House to these Regulations because the Explanatory Memorandum (EM) failed to make any reference to concerns over the safety of smart motorway schemes. Our specific concern was that these Regulations will bring the Junction 6 to 7 scheme into operation with emergency refuge areas (EAs) at a much greater distance apart than is currently considered optimal. We also asked whether the design of EAs takes into account the requirements and limitations of all-electric cars when they break down. We therefore wrote to the Minister for further explanation and the correspondence is published in Appendix 1.
2. The Minister's reply lists six All Lane Running (ALR) schemes<sup>2</sup> under construction which fall into the exemption to the moratorium that the Secretary of State agreed to while further safety information is gathered. **It also provides some comparative safety data from the Second Year stocktake<sup>3</sup> which is the sort of supporting evidence that we would expect to be included in every EM on this issue.**
3. On the specific question about the emergency refuge areas, the Minister's response only added to the confusion. The House of Commons Transport Committee recommended that EAs "should be 1,500 metres apart, decreasing to every 1,000 metres (0.75 miles) where physically possible" and the supplementary information we received from the Department for Transport for our 5th Report stated that in the ALR scheme to which these Regulations relate there are four designated EAs with an average spacing of 2.5km. The Minister's reply is couched in miles and states that the M56 scheme will have four emergency areas on opening on average 1.07 miles apart—which is 1,721 metres—a very different figure to the one originally given. **The House may wish to press the Minister to explain which is the accurate figure and when EAs at the recommended intervals will be retrofitted.**

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1 SLSC, [5th Report](#) (Session 2022–23, HL Paper 28).

2 ALR schemes involve the permanent conversion of the hard shoulder into a running lane, with emergency refuge areas provided at intervals for cars that find themselves in difficulty.

3 National Highways, 'Smart motorways stocktake: Second year progress report 2022': <https://nationalhighways.co.uk/media/uivj2zem/smart-motorways-stocktake-second-year-2022.pdf> [accessed 29 June 2022].

## INSTRUMENTS RELATING TO COVID-19

### Changes to business practice and regulation

#### *Draft Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022*

4. These Regulations propose an extension until 30 September 2023 of temporary provisions which were introduced in England during the pandemic to provide for a quicker process for businesses to obtain a pavement licence from their local authority. A pavement licence allows businesses that sell food or drink to place tables, chairs and other furniture on the highway adjacent to their premises.
5. The Department for Levelling Up, Housing and Communities (DLUHC) explains that the temporary provision was introduced by the Business and Planning Act 2020 and was intended to expire on 30 September 2021. It was subsequently extended until 30 September 2022.<sup>4</sup> This instrument proposes a further extension until 30 September 2023. DLUHC says that the temporary scheme “has overall been received positively by stakeholders”, and that following targeted engagement with the sector, disability groups, local authorities and others, provisions for making the arrangements permanent have been included in the Levelling-up and Regeneration Bill which is currently at Committee Stage in the House of Commons. We welcome that the Government intend to make the arrangements permanent through primary, rather than secondary legislation, as this will provide for a greater degree of parliamentary scrutiny.
6. We asked whether disability groups had raised any objections, and how any potential concerns had been addressed. The Department told us that: “Some concerns were raised regarding accessibility and in particular ensuring that disabled people have clear lines of access and are not disadvantaged and unable to use the pavement as a result of a licence having been granted. The measures require that local authorities have regard to the needs of disabled people when granting a licence, and minimum distances required for access by disabled people as set out in the guidance.”<sup>5</sup> We welcome that the guidance draws attention to the particular requirements of those who are visually impaired.
7. Asked whether local residents could object to the granting of a pavement licence, DLUHC confirmed that “local neighbours are able to raise objections and the local authority must take these into consideration when determining whether to grant a licence, and whether to impose conditions”.

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4 Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 ([SI 2021/866](#)).

5 Department for Levelling Up, Housing and Communities, ‘Guidance: pavement licences (outdoor seating)’: <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal> [accessed 28 June 2022].

## Public services

### *School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2022 (SI 2022/662)*

8. These Regulations correct the expiry provisions in relation to school admissions appeals that were made by earlier instruments,<sup>6</sup> to ensure that they expire at the end of 30 September 2022, rather than the beginning of that day. The Department for Education explains that, in response to the pandemic, temporary provisions were made to enable school admissions appeals to be considered by a panel of two members where the third member had to withdraw because of COVID-19; to enable hearings to be held remotely, rather than in person, or in some cases on the basis of written submissions; and to change the timescales and fixed deadlines for appeals. These Regulations will ensure that these provisions will expire at the end of 30 September, and that any appeals lodged on or before 30 September, which have not yet been decided, can be concluded using the temporary rules. Some of the temporary rules are being made permanent in the new School Admission Appeals Code 2022 (see draft School Admission Appeals Code 2022, paragraphs 22 to 24).

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<sup>6</sup> School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2020 ([SI 2020/446](#)) and School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) (No. 2) Regulations 2021 ([SI 2021/992](#)).

## **INSTRUMENTS OF INTEREST**

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### **Draft Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2022**

9. In normal times, airlines must use their slots at congested airports 80% of the time to retain their use for future seasons. During the pandemic the Department for Transport made a number of modifications to this system to reflect the reduction in demand caused by COVID-19. For this summer season (27 March to 29 October 2022), the minimum usage requirement was set at 70% after consideration of the available demand data and consultation with industry.<sup>7</sup>
10. New problems have arisen, however, particularly due to delays in companies' ability to recruit staff to run schedules as anticipated: over the May 2022 half-term week the Civil Aviation Authority estimated that between 2% and 4% of total flights were cancelled within a week of departure, compared to a normal rate of about 1%, which affected over 200,000 passengers; in the first week of June, approximately 2.3 million passengers (43%) were affected by delayed flights.
11. To provide an incentive for the industry which might stabilise the situation and develop a reliable schedule for the peak of the summer season, these Regulations will include slots handed back to the coordinator at least 14 days in advance in the airlines' 70% slot usage total. Certain conditions apply, for example those slots must be surrendered within the period 25 June to 8 July. To improve the situation for passengers, airlines must notify them of their flight's cancellation at least 14 days in advance to qualify for this easing of the rules.

### **Draft Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2022**

12. These draft Regulations propose to reduce the number of days when the Union Flag must be flown from Government buildings and courthouses in Northern Ireland to mark the birthday of a member of the Royal Family. The instrument proposes to remove the birthdays of the Duke and Duchess of Cambridge, the Earl and Countess of Wessex, the Duke of York, the Duchess of Cornwall and the Princess Royal from the list of designated days for flag flying. These changes would align the rules in Northern Ireland with those in the rest of the UK. As required under the Flags Regulations (Northern Ireland) 2000,<sup>8</sup> the Secretary of State referred the draft Regulations to the Northern Ireland Assembly. A report of the debate has been provided alongside the Explanatory Memorandum.<sup>9</sup>

### **Draft Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022**

13. According to HM Treasury (HMT), these draft Regulations are to ensure that the UK continues to meet international standards on anti-money laundering and counter-terrorist financing, whilst also strengthening and clarifying how the UK's anti-money laundering regime operates, following feedback from

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7 Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2022 ([SI 2022/368](#))

8 Flags Regulations (Northern Ireland) 2000 ([SR 2000/347](#)).

9 Northern Ireland Assembly, 'Official Report: Monday 21 March 2022': <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2022/03/21&docID=372035> [accessed 28 June 2022].

industry and supervisors. Amongst other changes, the instrument proposes to extend the provisions to all forms of business arrangement, not just companies and other legal persons. HMT says that this would specifically include Limited Partnerships which are registered in England and Wales or Northern Ireland. Scottish Limited Partnerships are already covered as they are “legal persons” and so are caught under the current provisions.

14. HMT told us that the Crown Dependencies (the Channel Islands and the Isle of Man) are not covered by the instrument, as they are not part of the UK but self-governing dependencies of the Crown with their own directly elected legislative assemblies, administrative, fiscal and legal systems and their own courts of law. HMT added that while the risk of re-location to avoid the draft Regulations is therefore a possibility, the Crown Dependencies enact “their own robust Anti-Money Laundering laws and are also all members of Moneyval,<sup>10</sup> which ensures that its members have effective systems in place to counter money laundering and terrorist financing and comply with the relevant international standards, such as those of the Financial Action Taskforce”.

### **Draft Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022**

15. A Competition and Markets Authority (CMA) investigation published in July 2018 identified weak competition within both the investment consultancy and fiduciary management markets.<sup>11</sup> These services influence or control decisions affecting pension scheme assets worth at least £1.6 trillion. In consequence the CMA introduced an Order in 2019 with remedies to address the problem.<sup>12</sup>
16. The current Regulations fulfil the Government’s commitment to put the relevant provisions of the 2019 Order into the main body of pensions law:<sup>13</sup>
  - Remedy One—is the mandatory competitive tendering for pension schemes first buying fiduciary management services or if they have not tendered previously.
  - Remedy Seven—places a duty on trustees to set their investment consultants strategic objectives.
17. This change will enable The Pensions Regulator to oversee trustees’ compliance with these duties and to allow for their effective monitoring and enforcement.
18. The Explanatory Memorandum states that the impacts are principally on the pensions industry, specifically “relevant trust schemes”. While the Impact Assessment provides evidence that improved tendering could make savings,

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10 Council of Europe, ‘Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism’: <https://www.coe.int/en/web/moneyval> [accessed 29 June 2022].

11 Investment consultancy is the provision of advice to pension scheme governance bodies, fiduciary management is the provision of advice combined with delegation of investment decisions.

12 Competition and Markets Authority, ‘The Investment Consultancy and Fiduciary Management Market Investigation Order 2019’: <https://www.gov.uk/government/publications/the-investment-consultancy-and-fiduciary-management-market-investigation-order-2019> [accessed 28 June 2022].

13 The Department for Works and Pensions, HM Treasury and The Pensions Regulator, ‘Correspondence Investment consultants market investigation’: <https://www.gov.uk/government/publications/investment-consultants-market-investigation-response/investment-consultants-market-investigation> [accessed 28 June 2022].

the evidence for the benefits of setting objectives was not quantifiable. We welcome the additional protections but note that the cost of them comes out of the pension scheme itself and has the potential to reduce benefits to members. This is the thirteenth SI relating to the governance of occupational pensions that we have seen in the last 12 months and the Government need to be mindful of the cumulative impact of the costs and administrative burdens on both pension schemes and trustees.

### Russia (Sanctions) (EU Exit) (Amendment) (No. 10) Regulations 2022 (SI 2022/689)

19. These new Sanctions Regulations further extend the restrictions on trade with Russia by prohibiting the export, supply, delivery, making available and transfer of more goods in the following categories to, or for use in, Russia:
  - Chemical and biological goods and technology
  - Defence and security goods and technology that could be used in Russia or non-government controlled Ukrainian territory occupied by Russia
  - Maritime goods and technology
  - Jet fuel and fuel additives
  - Oil refining goods and technology.
20. The Regulations also introduce prohibitions on export of Sterling or EU denomination banknotes to Russia or those connected with it, and ban the provision of ancillary services related to the import of Russian iron and steel. In addition, the Regulations introduce import bans on goods which generate significant revenues for Russia—for example wood and silver; **we were surprised that this had not been done earlier.**
21. To help exporters navigate the legislation the Regulations include commodity codes for the newly sanctioned goods which can be checked using the UK Integrated Online Tariff Tool.<sup>14</sup> We are pleased to note that, once again, despite this being urgent legislation, a detailed if not fully finalised Impact Assessment is included setting out the likely costs to UK industry.

### Draft School Admission Appeals Code 2022

22. The new School Admission Appeals Code 2022 will revise and replace the existing School Admission Appeals Code 2012<sup>15</sup> from 1 October 2022. The new Appeals Code makes **permanent** some of the temporary flexibilities that were introduced to enable school admission appeals to continue to be heard during the pandemic (see SI 2022/662, paragraph 8). These temporary provisions enabled appeals to be considered by a panel of two members where the third member had to withdraw because of COVID-19; enabled hearings to be held remotely (that is by video or telephone conference), rather than in person, or in some cases on the basis of written submissions; and changed the timescales and fixed deadlines for appeals.

14 UK Integrated Online Tariff, ‘Look up commodity codes, import duties, taxes and controls’: [https://www.trade-tariff.service.gov.uk/find\\_commodity](https://www.trade-tariff.service.gov.uk/find_commodity) [accessed 28 June 2022].

15 Department for Education, School Admission Appeals Code (February 2012): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/275897/school\\_admission\\_appeals\\_code\\_1\\_february\\_2012.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275897/school_admission_appeals_code_1_february_2012.pdf) [accessed 28 June 2022].

23. The Department for Education (DfE) says that it received “overwhelmingly positive” feedback about these flexibilities, including in relation to time and cost savings and greater accessibility, and support for making some of them permanent. Following consultation, the new Appeals Code will now permanently allow appeals to be held remotely (by video conference or telephone), in person, or in hybrid form (where participants join remotely and in person). DfE has decided, however, not to proceed with permanently allowing a panel of two to continue hearing appeals where the third member has to withdraw. DfE says while 82% of respondents to the consultation were in favour, concerns were raised, including that a panel of two could be perceived as unfair by parents and that a mix of lay and educational members was necessary to ensure a balanced discussion and breadth of experience.
24. Asked whether appellants would be able to insist that an appeal is held in person, the Department explained that under the new Appeals Code the decision on how to hold the appeal will rest with the admission authority of the school. The admission authority is required to be satisfied that each party will be able to present their case fully, and that they have access to the video or telephone facilities to allow them to take part in the hearing at all time. They must also comply with their Equality Act 2010 duties when making this decision which includes considering whether any reasonable adjustments may be needed. According to DfE, this means that where an appellant does not have access to the required facilities or is otherwise unable to present their case in the hearing remotely, the appeal should not take place remotely. DfE added that while the appellant cannot insist that an appeal is held in person, some admission authorities may choose to offer the appellant an opportunity to express a preference, and that the situation is different for appeal hearings held entirely by telephone which are only permitted if video conferencing cannot be used because of connectivity or accessibility and both the appellant and presenting officer agree on the telephone format.

## **INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE**

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### **Draft instruments subject to affirmative approval**

Draft	Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2022
Draft	Armed Forces Act (Continuation) Order 2022
Draft	Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022
Draft	Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2022
Draft	Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2022
Draft	Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022
Draft	Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022

### **Made instruments subject to affirmative approval**

SI 2022/689	Russia (Sanctions) (EU Exit) (Amendment) (No. 10) Regulations 2022
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### **Draft instruments subject to annulment**

Draft	Bolton (Electoral Changes) Order 2022
Draft	School Admission Appeals Code 2022
Draft	Stockton-on-Tees (Electoral Changes) Order 2022
Draft	Wolverhampton (Electoral Changes) Order 2022

### **Instruments subject to annulment**

SI 2022/631	Public Regulated Service (Galileo) (Revocation) Regulations 2022
SI 2022/669	Freedom of Information (Additional Public Authorities) Order 2022
SI 2022/659	Toys and Cosmetic Products (Restriction of Chemical Substances) Regulations 2022
SI 2022/662	School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2022

## APPENDIX 1: CORRESPONDENCE: M56 MOTORWAY (JUNCTIONS 6 TO 7) (VARIABLE SPEED LIMITS) REGULATIONS 2022

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### Letter from Lord Hodgson of Astley Abbots, Chair of the Secondary Legislation Scrutiny Committee, to Baroness Vere of Norbiton, Minister for Roads, Buses and Places at the Department for Transport.

We are very disappointed to be writing to you again about a lack of safety information in an Explanatory Memorandum (EM) from your Department.

The Committee has agreed a report on the M56 Motorway (junctions 6 to 7) (Variable Speed Limits) Regulations 2022, which will be published on Thursday 23 June, that draws the House's attention to the absence of any mention within the EM of the House of Commons Transport Committee's concerns on this type of road management or to the Secretary of State for Transport's acceptance of their recommendations.

After putting questions to the Department for Transport (DfT) we learned that the Transport Secretary's undertaking given in January to pause the rollout of 'smart' motorway schemes was qualified:

“We will complete schemes already in construction given they are all over 50% complete. In addition, leaving Traffic Management in place for the duration of the pause would lead to significant disruption to the travelling public and could potentially lead to drivers using less safe A-roads.”

This clarification prompted further questions, and the Committee has asked for information on each of the following:

- Could you please tell us how many other schemes fall into this 'already in construction' category and will become operational during the pause?
- What is the basis for stating that A-roads are less safe when the safety, data on smart All Lane Running roads has not yet been validated?
- What estimates does the Government have of the potential costs and benefits of pausing schemes which are already over 50% complete and reverting to the use of the hard shoulder, until the review of safety data has been completed?

Our Report will also draw attention to the fact that the All Lane Running scheme to which these Regulations relate has only four designated Emergency Areas with an average spacing of 2.5km. The Transport Committee's recommendation, which the Secretary of State accepted, stated that “they should be 1,500 metres apart, decreasing to every 1,000 metres (0.75 miles) where physically possible.”

The Junction 6 to 7 scheme will therefore be brought into operation with emergency refuge areas at a much greater distance apart than is currently considered optimal. We would therefore also welcome further information on the following:

- What advice does the DfT have on whether it could be held liable if a serious accident occurs because a driver could not reach the Emergency Area before breaking down?
- Does the current assessment of safe distances between Emergency Areas take into account the requirements and limitations of all-electric cars when they break down?

**22 June 2022**

### Letter from Baroness Vere of Norbiton to Lord Hodgson of Astley Abbotts

Thank you for your letter of 22 June 2002 regarding the M56 Motorway (Junction 6 to 7) (Variable Speed Limits) Regulations 2022.

I was sorry to read that the Committee is of the view that the Department's Explanatory Memorandum was lacking in safety information. Road safety is an issue that my Department and National Highways take very seriously. I am that we have one of the safest strategic road networks in the world. Nevertheless, I know that we can always do more, and I recognise the concerns of motorists about smart motorways in particular.

We have committed to a programme to improve safety experience on smart motorways, and this was set out in the Government's 2020 Smart Motorway Safety Stocktake and Action Plan. In January of this year, we also agreed to go further by taking forward all the recommendations proposed by the Transport Select Committee in its report on smart motorways. This included pausing the roll out of new smart motorways yet to start construction until five years of safety and economic data is available on the sections opened before 2020.

The measures in the Stocktake and our response to the Transport Select Committee represent over £900 million of safety improvements over the remainder of this road period, including £390 million for extra emergency areas and over £300 million in Stopped Vehicle Detection and concrete barriers.

You raised several questions in your letter, which I will address in turn.

#### **Could you please tell us how many other schemes fall into this 'already in construction' category and will become operational during the pause?**

As set out in our response to the Transport Select Committee, the Government has paused the roll-out of ALR smart motorway schemes yet to commence construction. This includes four All Lane Running schemes and seven dynamic hard shoulder running to All Lane Running conversion schemes.

We will however complete schemes already in construction given they are all over 50% complete. In total there are six All Lane Running smart motorway schemes in construction which will be completed during the pause. These are:

- M1 junction 13–16
- M4 junction 3–12
- M6 junction 13–15
- M6 junction 21a–26
- M27 junction 4–11
- M56 junction 6–8

#### **What is the basis for stating that A-roads are less safe when the safety data on smart All Lane Running roads has not yet been validated?**

Data on road traffic casualties in Great Britain are collected via the STATS19 process. These statistics are collected by police forces, and validated and published annually by my Department. The collision and casualty analysis presented here is developed by National Highways using STATS19 data.

In May 2022 National Highways published its [‘Smart motorways stocktake - Second year progress report 2022’](#). This report was independently assured by the Office for Rail and Road. The latest data shows that, overall, in terms of serious or fatal casualties, smart motorways are our safest roads. The report also found that based on five years of data, motorways are comparatively the safest roads to travel on when compared to other roads in England.

All types of smart motorway perform much better than A-roads for both collision and casualty rates. The personal injury collision rate for A-roads is 13.59 per hundred million vehicle miles (hmvm), compared to smart motorways which range from 6.24 per hmvm (All Lane Running) to 8.46 per hmvm (Controlled).

A-roads also have the highest fatal and weighted injury rates at 0.91 per hmvm, compared to smart motorways which range from 0.32 per hmvm (Controlled and Dynamic Hard Shoulder) to 0.33 per hmvm (All Lane Running). A-roads also have a much higher Killed and Seriously Injured rate at 3.66 per hmvm, compared to smart motorways which range from 1.17 per hmvm (Dynamic Hard Shoulder) to 1.30 per hmvm (Controlled) to 1.38 per hmvm (All Lane Running).

**What estimates does the Government have of the potential costs and benefits of pausing schemes which are already over 50% complete and reverting to the use of the hard shoulder, until the review of safety data has been completed?**

As the Government set out in its response to the Transport Select Committee’s report, schemes in construction are continuing as they are all more than halfway completed. Leaving traffic management in place for the duration of the pause would lead to significant disruption to road users and could potentially lead to drivers using less safe A-roads.

**What advice does the DfT have on whether it could be held liable if a serious accident occurs because a driver could not reach the Emergency Area before breaking down?**

The Department works closely with National Highways and the Office of Rail and Road to ensure risks to road users continue to be assessed, managed and controlled by National Highways in line with regulatory compliance.

**Does the current assessment of safe distances between Emergency Areas take into account the requirements and limitations of all-electric cars when they break down?**

National Highways watches the changing vehicle market with interest and is confident that their network remains suitable for the growing number of EV users. National Highways has equipped every Traffic Officer vehicle with “Slippery Jim” devices which allow vehicles (including EVs) to be moved even if they cannot be put into neutral. In addition, National Highways has recently invested in 72 new plug-in hybrid electric vehicles for its Traffic Officer fleet.

As vehicle technology develops, National Highways will continue to work with the industry to ensure that safe recovery procedures are developed that take into account the operation and behaviour of electric vehicles. As a preventative measure to address range anxiety and EV battery depletion on the network, National Highways is working with Motorway Service Areas (MSAs) and the Department to support the target of at least 6 high powered chargers at each MSA by 2023 by

installing energy storage systems where electricity network supply cannot readily support the demand.

### **Emergency areas**

In October 2020, National Highways published a new standard to be adopted by smart motorways entering the design phase. This standard requires places to stop in an emergency to be three-quarter miles apart where feasible, with a maximum spacing of one mile.

In our response to the Transport Select Committee earlier this year we committed to investing £390 million in retrofitting emergency areas across schemes in operation or construction to provide at least 150 additional emergency areas across the network by 2025.

The M56 scheme will have four emergency areas on opening, with a place to stop in an emergency every 1.07 miles on average. The scheme was designed before the new standard spacing for emergency areas was adopted, and it was not possible to change the design of the scheme at such a late stage. Where possible National Highways is providing some additional emergency areas for schemes in construction, including M1 junction 13 to 16 and M6 junction 13 to 15.

National Highways is currently developing a detailed programme for the retrofit of emergency areas, and this will be published later in the year. This will show where and when drivers will see the additional emergency areas. I would be very happy to share the programme with the Committee as soon as it is completed.

I hope the above provides you with greater assurance that road user safety on our strategic roads is foremost in my mind, as well as my officials and those in National Highways.

**27 June 2022**

## APPENDIX 2: INTERESTS AND ATTENDANCE

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 28 June 2022 and included in this report, Members declared the following interests:

**Draft Occupational Pension Schemes (Governance and Registration)  
(Amendment) Regulations 2022**

The Earl of Lindsay

*Chairman, Berry UK Pension Trustees Limited*

**Attendance:**

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord De Mauley, Lord German, Viscount Hanworth, Lord Hodgson of Astley Abbotts, Lord Hutton of Furness, the Earl of Lindsay, Lord Lisvane, Lord Powell of Bayswater, Lord Rowlands and Baroness Watkins of Tavistock.