Explanatory Memorandum

The British Transport Police (Police Services Agreement) Order 2004 No.1522

1. This explanatory memorandum is laid before Parliament by Command of Her Majesty. It contains information for the Joint Committee on Statutory Instruments. This Order and the memorandum have been prepared by the Department for Transport

This Order is subject to annulment in pursuance of a resolution of either House of Parliament.

2. Brief Description of the Order

This Order requires Network Rail and any person providing railway services relating to the use of trains on a network for the purposes of carrying goods or passengers or relating to a light maintenance depot or a station, and who has been granted a licence under section 8 of the Railways Act 1993 to operate such trains, light maintenance depot or station, to enter into a police services agreement (PSA) with the British Transport Police Force Authority. Section 33 of the Railways and Transport Safety Act 2003 (2003 c. 20) ("the 2003 Act") describes the nature and content of a PSA.

Matters of special interest to the Joint Committee on Statutory Instruments

7. The laying of this Order does not comply with the requirements of the 21 day rule. The reasons are as follows. This Order is one of three Orders being made that relate to the establishment of the new British Transport Police Authority. The other two Orders are the Railways and Transport Safety Act (Commencement No 3) Order 2004 and the British Transport Police (Transitional and Consequential Provisions) Order 2004. This Order could not be made before the making of the other Orders. The British Transport Police (Transitional and Consequential Provisions) Order 2004 required approval from both Houses before it could be made. The debates in the House of Commons and the House of Lords relating to that Order took place on the 14th and 17th June 2004 respectively and the approval from both Houses was obtained on 17 June.

As soon as approval for that Order had been obtained steps were immediately taken for the Railways and Transport Safety Act 2003 (Commencement No 3) Order 2004 to be made to bring into Force those provisions of the 2003 Act relating to the British Transport Police Authority; and as soon as possible thereafter this Order was made and laid. Nevertheless, it is regretted that this Order has not been laid in sufficient time to ensure compliance with the 21 day rule.

Legislative background

The Railways and Transport Safety Act 2003 (Commencement No 3) Order 2004 brings into force on 1st July 2004 the provisions of the 2003 Act relating to the establishment of the new Authority. Article 10 of the British Transport Police (Transitional and Consequential Provisions) Order 2004, which comes into force on 1st July 2004, makes transitional arrangements about police services agreements. First, under article 10, an agreement for police services entered into before 1st July 2004 is deemed to be a PSA. Secondly, under article 10, a licence condition requiring a person to enter into an agreement for police services ceases to have effect on 1st July 2004.

Policy Background

3. Currently, Network Rail and those granted a licence under Section 8 of the Railways Act to operate passenger trains, goods trains, light maintenance depots and stations are required, as a condition of their operating licence, to enter into an agreement for police services with the British Transport Police Committee. The policy intention is that, from 1st July, Network Rail and those licence holders will be required to enter into a PSA for such services with the new British Transport Police Authority which will be established on that date.

Extent

4. This Order applies to Great Britain.

Compatibility with the European Convention on Human Rights

5. In my view the provisions of this Order are compatible with the European Convention on Human Rights.

Impact

6. A regulatory impact assessment has not been produced for this Order as it has no impact of the costs of business.

Contact

The official within the Department for Transport who can be contacted with regarding any queries in relation to this Order is Charles Godfrey, Department for Transport, Great Minster house, 76 Marsham Street, London SW1P 4DR, Telephone 0207 944 6930; email charles.godfrey@dft.gsi.gov.uk.

21st June 2004

Tony McNulty

Parliamentary Under Secretary of State
Department for Transport