EXPLANATORY MEMORANDUM TO

THE CHANNEL TUNNEL (MISCELLANEOUS PROVISIONS) (AMENDMENT) ORDER 2014

2014 No. 409

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this Order is to make the necessary changes to give effect to the bilateral Agreement concluded between the United Kingdom and Belgium (known as the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium, concerning Immigration Controls on Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link signed at London on 3rd December 2013 and at Brussels on 18th December 2013) ("the bilateral Agreement").

2.2 The bilateral Agreement concerns the operation of UK immigration controls on passengers embarking in Brussels to travel to the UK on trains making a commercial stop in France and replaces the 2004 Administrative Arrangement (known as the Administrative Arrangement between the Secretary of State for the Home Department of the United Kingdom of Great Britain and Northern Ireland, the Vice Prime Minister, Minister for Home Affairs of the Kingdom of Belgium, and the Minister of the Interior, of Internal Security and Local Freedoms of the French Republic, concerning the Exercise of Immigration Controls by British Officials at the Gare du Midi in Brussels and by Belgian Officials at Waterloo International Station in London and Ashford International, signed at The Hague on 1st October 2004) ("the 2004 Arrangement") in respect of immigration controls on passengers travelling between Belgium and the UK on trains originating in Belgium and making an international stop in France. The effect of the 2004 Arrangement in respect of immigration controls by French and Belgian officers on passengers travelling between the UK and Belgium on trains originating in the UK and making an international stop in France is preserved.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405) makes provision in respect of trains travelling through the Channel Tunnel between the UK and Belgium (via France). This gives the relevant international agreements the force of law in those parts of the UK where

controls are exercised. Currently controls in the UK in respect of these trains are exercised at St Pancras International, Ebbsfleet International and Ashford International and may be exercised by French or Belgian officers.

4.2 The Channel Tunnel (Miscellaneous Provisions) (Amendment) Order 2014 amends S.I. 1994/1405 to implement the new bilateral Agreement between the UK and the Kingdom of Belgium and to preserve the effect of the 2004 Administrative Arrangement between Belgium, France and the UK insofar as it relates to the operation of immigration controls on passengers embarking in the UK to travel to Brussels on trains making a commercial stop in France. A copy of the bilateral Agreement will be deposited in the House libraries.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 This Order makes the necessary changes to domestic legislation to bring into force the new bilateral Agreement signed by the UK and Belgium concerning the operation of juxtaposed immigration controls in Brussels.

7.2 A tripartite Agreement between France, Belgium and the UK of 1993, a Protocol to that Agreement and administrative arrangements made pursuant to that instrument in 2004 and 2007 provide the basis for juxtaposed controls in respect of trains travelling between Belgium and the UK via the Channel Tunnel and via France. The original Agreement defined the scope of these controls as applying to "non-stop rail traffic". However, services from Brussels subsequently introduced a commercial stop in Lille and all trains technically became "stopping trains". The 2004 Arrangement, implemented by the Channel Tunnel (Miscellaneous Provisions) (Amendment) Order 2004 (S.I. 2004/2589), extended the tripartite Agreement to stopping trains to reflect this change in commercial passenger rail traffic and allow for immigration controls on stopping trains at the juxtaposed controls in the UK and Belgium.

7.3 The Belgian authorities recently sought further legal underpinning for the UK operation of immigration controls on stopping trains at the juxtaposed controls in Belgium in the form of a Treaty-level agreement as opposed to an administrative arrangement. The bilateral Agreement has been signed to address those concerns. It does not confer any new powers on Border Force officers and in practice, on ratification of the bilateral Agreement, immigration controls on stopping trains in Belgium will continue as they did under the

2004 Arrangement. The French Government is not party to the bilateral Agreement but has approved its content.

- ***Consolidation***

7.4 On balance the Department does not consider consolidation to be appropriate on this occasion but will consider consolidation in the event that amendments are required to this instrument in the future.

8. Consultation outcome

8.1 The Order is not subject to statutory consultation and no public consultation was undertaken.

9. Guidance

9.1 This instrument does not create any new powers so there is no need for guidance.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil since this instrument covers an already existing function.

10.3 An Impact Assessment has therefore not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The operation of juxtaposed controls is regularly inspected by the Independent Chief Inspector of Borders and Immigration.

13. Contact

Colin Jackson at the Home Office (Tel: 020 7035 1854 or email: colin.jackson@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.