EXPLANATORY MEMORANDUM TO

THE CHANNEL TUNNEL RAIL LINK (PLANNING APPEALS AND ASSESSMENT OF ENVIRONMENTAL EFFECTS) (REVOCATION) REGULATIONS 2014

2014 No. 1333

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

This instrument revokes two sets of Regulations which are spent.

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

None.

4. Legislative Context

4.1 This instrument revokes the following sets of Regulations (listed in chronological order):

- The Channel Tunnel Rail Link (Planning Appeals) Regulations 1997 (S.I. 1997/821); and
- The Channel Tunnel Rail Link (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/107).

4.2 This instrument forms part of the implementation of the Government's *Red Tape Challenge* initiative. More information about this programme of work is provided below.

5. Territorial Extent and Application

This instrument extends to the United Kingdom.

6. European Convention on Human Rights

As this 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 In November 2011, the Department for Transport published on-line (see www.redtapechallenge.cabinetoffice.gov.uk/2012/07/30-07-12-rail-transport-announcement) details of statutory instruments applying to the rail transport sector as

part of the Government's *Red Tape Challenge* initiative and invited comments on whether these should be revoked, retained or improved. The Department also led a workshop, chaired by Ministers and attended by stakeholders from the rail sector, to discuss cutting red tape and methods of reducing regulatory burdens. The objective was to re-examine all of the provisions and gather views on how the aims of existing regulations can be fulfilled in the least burdensome way possible.

7.2 Following detailed policy and legal scrutiny, it was concluded that around half of these instruments were suitable for either revocation or improvement. The two sets of regulations revoked by this instrument were among those identified as suitable for revocation because they are spent.

7.3 ***The Channel Tunnel Rail Link (Planning Appeals) Regulations 1997*** ("the 1997 Regulations") were made under the Channel Tunnel Rail Link Act 1996 ("the 1996 Act") and prescribe the format, process and time limits for the consideration of appeals against decisions of relevant local authorities on applications for various planning approvals relating to the construction of the Channel Tunnel Rail Link (now known as "High Speed 1"). Under the 1996 Act, the nominated undertaker for High Speed 1 was granted a deemed planning permission in relation to the development of the rail link but specific planning approvals still had to be obtained from relevant local authorities for detailed plans and specifications. The deemed planning permission, to which these approvals were to be ancillary, applied only to development undertaken in the ten year period following the passing of the 1996 Act (i.e. from December 1996 when the Act received Royal Assent). As that period has now expired, the provisions set out in the 1997 Regulations are spent. The 1997 Regulations can therefore now be revoked.

7.4 ***The Channel Tunnel Rail Link (Assessment of Environmental Effects) Regulations 1999*** ("the 1999 Regulations") made under the European Communities Act 1972 ensured that the requirements of Council Directive 85/337/EEC on the assessment of the environmental effects of certain projects were considered during the construction of High Speed 1, in relation to development covered by the deemed planning permission granted under the 1996 Act. Since the deemed consent requirements only applied to works commenced within the 10 years following the enactment of the 1996 Act and this time limit has now expired, these provisions are also spent. The 1999 Regulations can therefore also be revoked.

- **Consolidation**

7.5 This instrument revokes two sets of regulations and no consolidation is required.

8. Consultation outcome

8.1 The process described in paragraph 7.1 produced no specific comments about the proposed revocations made by this instrument.

8.2 The Department consulted High Speed 1(HS1) Ltd on its revocation proposals. During informal consultation the company indicated a preference for the perpetuation of both instruments, though no specific reasons or evidence to support its

position were supplied. The intention to revoke the instruments was further highlighted to the company during the exercise described in paragraph 7.1 and no further comments were made.

8.3 Section 10(1) of the 1996 Act provides that the deemed planning permission granted under section 9(1) of that Act only applies to development work begun not later than the end of 10 years beginning with the date on which the 1996 Act was passed (i.e. December 1996 when it received Royal Assent). Although the Secretary of State had an option to extend this deadline by order, this has not been exercised and the Department considers that the extension power lapsed on the expiry, without renewal, of the original 10 year period. The deadline cannot, therefore, be extended in practice without a new legislative regime being established. Since all construction works have been completed and no extensions to the network under existing powers are planned, the Department considers that the provisions are now spent and both the 1997 and 1999 Regulations can therefore be revoked.

9. Guidance

Specific guidance on this instrument is unnecessary because it revokes legislation which is redundant.

10. Impact

A full regulatory impact assessment has not been produced for this instrument as no impact on the private, public or voluntary sectors is foreseen.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

This instrument revokes two sets of regulations so no monitoring or review is necessary.

13. Contact

Chris Angell at the Department for Transport Tel: 020 7944 0082 or e-mail: christopher.angell@dft.gsi.gov.uk can answer any queries regarding this instrument.