POLICY NOTE

THE COMPANIES ACT 2006 (SCOTTISH PUBLIC SECTOR COMPANIES TO BE AUDITED BY THE AUDITOR GENERAL FOR SCOTLAND) ORDER 2022

SSI 2022/207

The above instrument will be made in exercise of the powers conferred by section 483(1) and (4) of the Companies Act 2006. The instrument is subject to the affirmative procedure.

Purpose of the instrument: To enable Scottish Rail Holdings Ltd to have their accounts audited by the Auditor General for Scotland, and to have an Accountable Officer appointed.

Policy Objectives

Scottish Rail Holdings is a private limited company (company number SC548826) established under the Companies Act and an executive non-departmental public body. Scottish Rail Holdings and its subsidiary ScotRail Trains Limited, were established by Transport Scotland on behalf of Scottish Ministers to further the discharge of their duties under Section 30 of the Railways Act 1993 with effect from 1 April 2022. The Scottish Ministers are the sole shareholder of Scottish Rail Holdings.

As a matter of policy, Scottish Rail Holdings, as an executive non-departmental public body would be expected to have an Accountable Officer. Scottish Rail Holdings is not part of the Scottish Administration in terms of the Scotland Act 1998. This means that for the purposes of the Public Finance and Accountability (Scotland) Act 2000 ("the 2000 Act"), the Permanent Secretary as Principal Accountable Officer is not automatically able to appoint an Accountable Officer to Scottish Rail Holdings as a purely administrative exercise. To enable that to happen, an Order is required under section 483 of the Companies Act 2006, requiring Scottish Rail Holdings accounts to be audited by the Auditor General for Scotland, which engages the relevant provisions of Part 2 of the 2000 Act, including power to designate an Accountable Officer for Scottish Rail Holdings under section 15 of that Act.

ScotRail Trains Limited, (company number SC328826) will have its accounts treated as part of Scottish Rail Holdings' group accounts being a subsidiary company in terms of section 479A of the Companies Act 2006.

Consultation

Audit Scotland were consulted during the preparation of the instrument. Responses have confirmed that the AGS is willing to assume the auditing role and have helped assist with best timings for introduction.

Impact Assessments

No impact assessments were undertaken given the nature of this instrument.

Financial Effects

The Cabinet Secretary for Finance confirms that no Business and Regulatory Impact

Assessment (BRIA) is necessary as the instrument has no material financial effects on the Scottish Government, local government or on business.

Rail Directorate
Transport Scotland
Scottish Government

April 2022