EXPLANATORY MEMORANDUM TO

THE COMPANIES HOUSE TRADING FUND (REVOCATION) ORDER 2019

2019 No. 1337

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument will revoke the Companies House Trading Fund Order 1991 (S.I. 1991/1795), and the Companies House Trading Fund (Amendment) Order 2009 (S.I. 2009/2622), and thereby bring to an end the trading fund status of Companies House.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Matters relating to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Government Trading Funds Act 1973 established a framework within which trading funds may be established by Order. A trading fund is a means of financing revenue-generating operations of a government department. Income from charges made for the provision of goods and services is retained and used to meet the fund's expenditure. Operating surpluses may be retained and paid back to the Exchequer as dividends on the public dividend capital represented by the fund.

6.2 In 1991, an Order was made establishing the Companies House Trading Fund. The funded operations were extended by Order in 2009.

6.3 This instrument revokes the Companies House Trading Fund Order, the Companies House Trading Fund (Amendment) Order, and particular provisions from other legislation which amended the Companies House Trading Fund Order.

7. Policy background

7.1 The Office for National Statistics (ONS) is responsible for determining the classification of public bodies. At the request of Eurostat, the Statistical Office of the European Union, ONS conducted a review of trading funds in the UK. The review found that:

- The charges on confirmation statements and incorporation levied by Companies House should be considered as compulsory and unrequited, and therefore as taxes
- Even if the revenue from confirmation statements and incorporation was deemed to be from sale of a service, the charges would not be considered economically significant
- The activity of Companies House should not be considered regulatory

7.2 The outcome of the ONS review was that Companies House should be classified as part of central government, and should have its accounts consolidated with those of its sponsor department. This is incompatible with trading fund status. This instrument consequently closes the trading fund. Companies House will remain an executive agency of BEIS, and will continue to incorporate and dissolve companies, register company information and make it available to the public. The assets and operations of the fund will be brought back within the ambit of BEIS' vote.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 N/A.

10. Consultation outcome

10.1 A public consultation was not required. (Consultations are required when making orders under the Government Trading Funds Act 1973 (c. 63) only where that order is in respect of operations not already financed by means of a trading fund, which is not the case here.)

11. Guidance

11.1 N/A.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it does not impact on business. It is an accounting/administrative change within government, and the operations of Companies House, and how it engages with business, will be unaffected.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This is a one-off change in internal Government accounting for these operations, and so there is no requirement for ongoing monitoring and review.

15. Contact

15.1 Telephone: 07919 696 464 or email: Gerard.mcmahon@beis.gov.uk with any queries regarding the instrument.

15.2 Matt Ray, Deputy Director for Business Frameworks, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kelly Tolhurst, Parliamentary Under Secretary of State for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.