EXPLANATORY MEMORANDUM TO

THE CONNECTING EUROPE FACILITY (REVOCATION) (EU EXIT) REGULATIONS 2019

2019 No. 477

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Act.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument puts in place contingency arrangements that would be needed, and addresses deficiencies that would arise in EU Regulations, following the UK's departure from the EU without a withdrawal agreement being in place In line with the terms of the government guarantee in relation to EU grants (the "HM Government guarantee") given in 2016 and extended in July 2018 (notified to Parliament in written statement HCWS926), the instrument will give powers to the Secretary of State to make outstanding payments to UK participants in Connecting Europe Facility ("CEF") co-funded programmes, where funding has previously been agreed with the EU (as the EU might not make payments after exit day if a withdrawal agreement is not in place). The powers would also enable the Secretary of State to make similar payments up to 2020, again in line with the HM Government guarantee, if, exceptionally, the EU awards grants under CEF to UK participants on a "third country" basis after exit, but does not make the relevant payments where a withdrawal agreement is not in place.

2.2 This instrument revokes Regulation 1316/2013 on the Connecting Europe Facility ("the CEF Regulation"), on the grounds that this Regulation which deals with internal EU procedures would be redundant as a result of the UK's exit from the EU.

2.3 In its consultation with the Devolved Administrations, the Government also proposed to revoke Regulation 1315/2013 on the Trans-European Transport Network ("the TEN-T Regulation"), and Regulation 913/2010 on the European Rail Network for Competitive Rail Freight ("the European Rail Network for Competitive Freight Regulation") on the grounds that these Regulations would be substantially redundant as a result of the UK's exit from the EU. In response to concerns raised, the Government has removed from the instrument the provisions that would revoke the TEN-T Regulation and the European Rail Network for Competitive Freight Regulation while it responds to the concerns raised. Subject to those discussions, the Government anticipates bringing forward a separate draft instrument in due course to deal with deficiencies arising under those Regulations. There are no immediate practical impacts anticipated arising from this deferral.

2.4 Whilst it is the case that the TEN-T Regulation and the European Rail network for Competitive Freight Regulation are not revoked by this instrument, this memorandum does contain explanatory material relating to them, and to Regulation (EU) 347/2013

("the TEN-E Regulation") and Regulation (EU) 283/2014 ("the e-TEN Regulation"), as they are an important part of the context for the CEF Regulation.

Explanations

What did any relevant EU law do before exit day?

2.5 The CEF Regulation is the funding instrument for the Trans-European Networks for Transport ("TEN-T"), Energy ("TEN-E") and Digital Communications ("e-TEN"). It sets the conditions, methods and internal EU procedures for providing EU financial assistance to the trans-European networks and establishes the amounts of funding available for the 2014-2020 multi-annual financial framework.

2.6 The TEN-T Regulation establishes guidelines for the development of a trans-European transport network. It specifies standards, timescales and priorities for the development of the network. It includes the maps which defines the airports, ports, road, rail and inland waterways that make up the Trans-European transport network.

2.7 The TEN-T and CEF Regulations have been amended or supplemented by several other Commission Delegated Regulations. (The CEF Regulations are revoked by this instrument). The TEN-E and e-TEN networks are set up under separate EU legislation, respectively, Regulation (EU) 347/2013 and Regulation (EU) 283/2014. (It is expected that the Department for Business, Energy and Industrial Strategy and the Department for Digital, Culture, Media and Sport will be bringing forward instruments that deal with these regulations).

2.8 The European Rail Network for Competitive Freight Regulation sets out rules for the establishment and organisation of international rail freight corridors ("RFCs"), including the coordination of pre-arranged paths for international rail freight. A RFC is made up of railway lines linking two or more terminals along a predefined route and crossing more than one EU Member State. The UK is currently a member of the North-Sea Mediterranean Corridor. Amendments were made to this Regulation by the CEF Regulation including extensions to the North Sea Mediterranean Corridor from London to Glasgow, Edinburgh, Southampton and Felixstowe.

2.9 The CEF Regulation was supplemented by Commission Delegated Regulation (EU) 2016/1649 which set out detail on funding priorities for EU financial assistance.

Why is it being changed?

2.10 The CEF Regulation puts in place the internal EU conditions, methods and procedures for EU funding to be provided for TEN-T, TEN-E and e-TEN projects. As its provisions deal with internal EU mechanisms, it is redundant and will serve no purpose as "retained EU law" under section 3 of the European Union (Withdrawal) Act 2018. This instrument therefore revokes the CEF Regulation and also Commission Delegated Regulation (EU) 2016/1649 which supplements it.

2.11 Whilst the revocation of the CEF Regulation and Commission Delegated Regulation (EU) 2016/1649 does not affect the validity, for the purposes of EU law, of grants awarded under CEF, if the UK leaves the EU without concluding a withdrawal agreement, it is possible that projects that have been awarded funding from the EU budget will be due money which may not be paid or may not be paid immediately by the EU. To mitigate this, the intention is that in such cases, payments due will be met by the HM Government guarantee put in place by HM Treasury. The Departments responsible for the different elements of CEF (Departments for Transport, for TEN-T,

Business, Energy and Industrial Strategy, for TEN-E and Digital, Culture, Media and Sport for e-TEN) will however need spending powers in order to provide to provide the funding that had been committed under the CEF Regulation. These back up funding powers will also be available to meet payments arising from unpaid awards to UK participants, post UK exit, on a "third country" basis.

What will it now do?

2.12 The instrument revokes the CEF Regulation and Commission Delegated Regulation (EU) 2016/1649 and provides powers for the Department for Transport, the Department for Business, Energy and Industrial Strategy and the Department for Culture, Media and Sport to make payments in respect of CEF grants if these are not met by the EU in the event of the UK leaving the EU without a withdrawal agreement in place. In addition there will also be powers to make payments in any cases where, between exit day and the end of the 2020 CEF funding period, awards are exceptionally made to UK participants as "third country participants" (In limited cases EU member states can agree a Commission proposal under CEF for third country projects to be funded; following exit, the UK will be a "third country"). In practice this means that any Secretary of State may provide funding to a beneficiary who has been awarded CEF funding (whether or not the funding has yet commenced), in relation to transport, energy and telecommunications infrastructure projects.

2.13 The extensions to the parts of the North Sea Mediterranean RFC in Great Britain made by CEF are saved by the instrument and not affected by the revocation of the CEF Regulation or Commission Delegated Regulation (EU) 2016/1649.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments and Sifting Committees

3.1 The instrument was laid for sifting under paragraph 3 of Schedule 7 to the European Union (Withdrawal) Act 2018, on 21 December 2018, by the Parliamentary Under Secretary of State, Baroness Sugg. She considered that the appropriate Parliamentary procedure for the instrument was that it should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the "negative procedure"), and made a statement to that effect as detailed in Part 2 of the Annex to this Explanatory Memorandum.

3.2 The Secondary Legislation Scrutiny Committee of the House of Lords, at its meeting on 17 January 2019, scrutinised the instrument and agreed that the negative procedure should apply to the instrument.

3.3 The European Statutory Instruments Committee of the House of Commons, at its meeting on 22 January 2019, scrutinised the instrument and agreed that the negative procedure should apply to the instrument.

3.4 When the UK leaves the EU, CEF funding which has previously been agreed by or on behalf of the European Commission may not be paid out, depending on the terms of the UK's departure or if the UK departs without a withdrawal agreement in place. This instrument grants the Secretary of State the power to make good any shortfall in funding encountered by UK participants. It is based on the HM Government Guarantee that was announced by the Chancellor of the Exchequer in the August 2016

and extended by the Chief Secretary to the Treasury by way of Written Ministerial Statement HCWS926 on 24 July 2018.

3.5 The HMG Guarantee, together with this instrument, works to ensure that no shortfall in funding for CEF funded projects is caused as a result of EU exit and the resultant ending of CEF funding for UK participants. This is also the case, again in line with the HMG Guarantee, for any grants exceptionally awarded to UK participants on a "third country" basis where EU payments are not made up to the end of 2020 when the CEF funding period comes to an end.

Matters relevant 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)

3.6 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.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 Baroness Sugg, Parliamentary Under Secretary of State has made the following statement regarding Human Rights:

"In my view the provisions of the Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019 are compatible with the Convention Rights."

6. Legislative Context

6.1 The Maastricht Treaty gave the EU new objectives with regard to establishing and developing trans-European networks ("TENs") in the areas of transport, telecommunications and energy. The aim was to help develop the single market, reinforce economic and social cohesion, link islands, landlocked and peripheral regions with the central regions of the EU, and bring EU territory within closer reach of neighbouring states. These aims have been pursued through a series of EU legislative acts, which are revised from time to time.

6.2 The current framework is governed by Article 170 of the Treaty on the Functioning of the European Union[1] and allows for the setting up of trans-European networks for Transport, Energy and Digital Communications. Article 171 of the Treaty provides for the creation of guidelines for the creation of these networks, taking into account interoperability (meaning the ability of different systems to operate in conjunction with each other), the common interests of Member States, and economic viability. By virtue of Article 172 of the Treaty, these guidelines shall be adopted by the European Parliament and the Council, in accordance with the ordinary EU legislative process.

6.3 The CEF Regulation is directly applicable in the UK in accordance with section 2(1) of the European Communities Act 1972 ("the ECA 1972") and so no UK statutory instruments were needed to implement it. The CEF Regulation sets out the rules and procedures for accessing funding from the CEF for projects in the energy, transport

[1] OJ C 326, 26.10.2012, p. 47–390.

and telecommunications sectors. The funding is a percentage of the overall costs, paid by the Innovation and Networks Agency (an EU executive agency) under a grant agreement from that Agency. Grant agreements are governed largely by Belgian law, they set out roles and responsibilities to ensure that the funding recipient uses the EU funding properly. Grants are applied for in semi-annual calls for funding and applications are made direct to the Commission. The UK Government has a limited role in the application process, but no role in the decisions on whether or not to grant funding to specific projects. The Commission sets objectives for each call and a portion of the funding is set aside for cohesion grants, rather than pure transport or other grants. All calls for funding are significantly oversubscribed.

6.4 The TEN-T Regulation is directly applicable in the UK due to Section 2(1) of the ECA 1972, and so no UK statutory instruments were needed to implement it. The TEN-T Regulation establishes guidelines for the development of a trans-European transport network, identifies projects of common interest, sets out priorities for development, and provides measures for implementation.

6.5 The European Rail Network for Competitive Freight Regulation which was made under article 91 of the Treaty on the Functioning of the European Union is also directly applicable under section 2(1) ECA 1972, and so no UK statutory instruments were needed to implement it. This Regulation provides for the creation of rail freight "corridors" throughout the EU. The UK became part of the North Sea-Mediterranean corridor in 2016. Network Rail (as UK infrastructure manager) is responsible for allocating train paths for the freight operators to use in the UK. These are allocated as part of the overall timetabling process. Under amendments made by the CEF Regulation, the UK corridors were extended with train paths being allocated through to Scotland, Felixstowe and Southampton as well as just to London.

6.6 The TEN-E regulation is also directly applicable in the UK due to Section 2(1) of the ECA 1972, and so no UK statutory instruments were needed to implement it. The TEN-E Regulation provides for the creation of a trans-European energy infrastructure network and the designation of energy infrastructure projects that contribute to European energy networks as "projects of common interest", which may allow energy projects to benefit from faster and more efficient permit granting procedures, European funding and improved regulatory treatment, where appropriate.

6.7 The e-TEN Regulation is also directly applicable in the UK due to Section 2(1) ECA 1972, and so no statutory instruments were needed to implement it. The e-TEN Regulation provides for the creation of trans-European telecommunications networks and the identification of 'projects of common interest" in the telecommunications sector. These projects can also benefit from faster and more efficient permit granting procedures, European funding and improved regulatory treatment, where appropriate.

6.8 This instrument will be made in exercise of the powers conferred by sections 8(1) and of the European Union (Withdrawal) Act 2018, which allow for the regulations to be made to prevent, remedy or mitigate deficiencies in EU law that would otherwise be retained under sections 2 to 4 of the Act.

7. Policy background

What is being done and why?

7.1 The SI is needed to put in place the transitional arrangements and address deficiencies in EU Regulations on the UK's departure from the EU. HM Treasury announced, in

the 2016 Autumn Statement, that the Government will put in place a central underwriting facility to guarantee continuity of funding for projects that may be due payment of EU grants after the UK has left the EU and in the event these payments are not made by the EU. This was extended, as notified to Parliament through a Written Ministerial Statement in July 2018, to cover the payment of awards under successful competitive bids, both while the UK remained part of the EU and, after the UK's departure when the UK will be an EU "third country" (meaning any country outside the EU). This guarantee will be needed only if the EU and UK fail to put in place a negotiated agreement for EU exit. As part of the work to operationalise this guarantee, powers are needed to make payments to project promoters in the event that a "no deal" exit from the EU occurs.

7.2 For the TEN-T and CEF Regulations, leaving the EU means that the UK is no longer a Member State and therefore is not part of the legal definition of the trans-European transport network. The purpose of the TEN-T Regulation is to strengthen the economic, social and territorial cohesion of the Union by creating a single European transport network. This is to be done by achieving specific technical infrastructure requirements across the different transport modes, which will be enforced by the Commission through the infraction process. As a non-Member State, the UK would not be bound by the enforcement mechanism and would have no access to the TEN-T governance process, which allows for derogations to be made to the standards where it is unaffordable to comply with them or there is no positive cost benefit analysis. Correcting these deficiencies would require the UK to set up an enforcement mechanism (including a process for agreeing exemptions) for EU imposed standards over which the UK would have no control.

7.3 The European Rail Network for Competitive Freight Regulation includes cross-references to the TEN-T Regulation, but also puts in place Management and Executive Boards for each multi-national corridor, which are responsible for the management of the corridor as a whole. The Management and Executive Boards are overseen by the European Commission and Court of Justice. Due to these structures and involvement of EU institutions, the Regulation will have a number of significant deficiencies in its operation post UK Exit.

7.4 To date, use of the North-Sea Mediterranean Corridor has been negligible in the UK, with rail freight operators preferring to use access rights granted under national rules rather than booking pre-arranged international freight paths through the Corridor One Stop Shop (C-OSS). Existing access contracts granted under national rules have a longer duration and are more certain than bidding for access through the central C-OSS. The cessation of our current membership of the Corridor will not prevent international freight from operating through the Channel Tunnel.

7.5 The Government had proposed to deal with these issues by revoking all the relevant EU Regulations and accompanying amending/supplemental EU Regulations as the most straightforward solution to this. In light of concerns expressed in consultation with the Devolved Authorities, however, this instrument addresses only the Regulations associated with the CEF, and not the TEN-T Regulation or the European Rail Network for Competitive Freight Regulation alongside putting in place powers to underwrite EU grant funding.

7.6 The CEF Regulation sets the internal EU priorities and processes for managing the funding from the EU Budget. After leaving the EU, the UK will no longer be a Member State and, subject to the terms of any withdrawal agreement that is put in

place, will have no ongoing commitment to pay into, or right to receive money from, the EU Budget. As such the CEF Regulation should be revoked

7.7 This instrument does not confer any additional funding beyond that awarded under CEF, and neither does it confer a funding power on the Secretary of State to award funding beyond that awarded by CEF. The purpose of the SI is merely to provide a legal basis for the Government to make good any shortfall in funding encountered by projects which had previously been awarded CEF funding or which may be awarded funding before the end of 2020, where such funding would be lost as a result of the UK's withdrawal from the EU.

7.8 This instrument, together with the HMG Guarantee, ensures that there will be no shortfall in funding awarded to transport projects under the CEF programme, in the event of a no deal EU exit.

7.9 The Departments for Business, Energy and Industrial Strategy and Digital, Culture, media and Sport retain responsibility for the instruments that will deal with the TEN-E Regulation and the e-TEN Regulation.

8. European Union (Withdrawal) Act 2018 / Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The instrument is also made under paragraph 21 of Schedule 7 to the Act. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this explanatory memorandum.

9. Consolidation

9.1 The Department for Transport has no current plans to consolidate the legislation covered by this instrument.

10. Consultation outcome

10.1 This instrument and the policy reflected in it has been developed in collaboration with Devolved Administration officials. Potentially impacted industry stakeholders were consulted to ensure they had an opportunity to express their views and raise any concerns, including stakeholders from rail, telecom and energy sectors. No issues were raised by industry stakeholders. Concerns were however expressed by Welsh Assembly Government in relation to the proposed revocation of the TEN-T and the European Rail Network for Competitive Rail Freight Regulation. These Regulations will not therefore be revoked by this Instrument and this will be subject to further consideration. Technical notices issued by the Government in autumn 2018 set out the plans for the HMT guarantee and provided an avenue for individuals and businesses to send in any queries they might have regarding future arrangements for the Connecting Europe Facility.

11. Guidance

11.1 The Department for Transport is not producing any specific guidance on this instrument as it is only amending a deficiency arising from the UK's withdrawal from the EU. Guidance on the operation of the HM Government Guarantee for funding will

be prepared and issued in the event of no deal on EU exit being agreed with the EU. Further information can be found in the Chief Secretary to the Treasury's Written Ministerial Statement - HCWS926.

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 the costs and benefits to business are expected to fall below £5million net in any one year. In the event that the UK exits the EU without a withdrawal agreement in place the instrument will enable UK businesses and other organisations that are due to receive CEF funding to receive that funding in case of any shortfall from the EU. The position should therefore be unchanged from the current one.

13. Regulating small business

13.1 The legislation does apply to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people) the approach taken is that the grant powers provided for under the instrument would be as capable of being used to benefit small businesses, who have not received payment of EU grants under CEF, as they would be of being used to benefit large businesses. The instrument imposes no additional burdens on business.

14. Monitoring & review

14.1 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

15. Contact

15.1 Craig Welsh at the Department for Transport Telephone: 07977 435 643 or email: craig.welsh@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Martin Jones, Deputy Director, EU Division, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under-Secretary of State, Baroness Sugg at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

1. Sifting statement(s)

1.1 The Parliamentary Under-Secretary of State, Baroness Sugg has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)".

1.2 This is the case because: the instrument only makes changes which are necessary to address deficiencies arising from EU exit, by revoking an EU Regulation which deals with internal EU procedures and methods and therefore will be redundant as retained EU law following exit day. Additionally, although the instrument provides a power for the Secretary of State to award a grant, this is in pursuance of a central policy notified to Parliament by HM Treasury to ensure that organisations for which EU funding has been agreed before the end of 2020 (and whether before or after exit day) should continue to receive that funding in the event of no agreement being reached between the Government and the EU on the terms of the UK's departure from the EU.

2. Appropriateness statement

2.1 The Parliamentary Under-Secretary of State, Baroness Sugg has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019 do no more than is appropriate".

2.2 This is the case because: the EU Regulations covered by the instrument would not function effectively after exit day, and it has been concluded that that revocation was the most appropriate measure. The new funding power does no more than necessary, as it only enables the Secretary of State to give funding to organisations in the UK for which EU funding has been awarded before the end of 2020 (whether before or after exit day) under the Connecting Europe Facility. While there are some available powers in existing statutes, there are areas where the Secretary of State may not have sufficient powers to make those funding awards. This power is constrained to be no wider than necessary to ensure that people who have been awarded funding will not lose out on that promise.

3. Good reasons

3.1 The Parliamentary Under-Secretary of State, Baroness Sugg has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

3.2 The reasons are as follows: After EU exit, UK transport, energy and telecommunications networks would no longer be part of the EU's Trans-European Transport Network (since the UK would be a third country). If a withdrawal agreement has not been concluded, the Commission might not be able to pay monies to any UK organisation even if a grant award had been agreed before exit day. The policy position notified to Parliament by HM Treasury is that grant recipients should not miss out in these circumstances. The CEF Regulation revoked by this instrument sets out internal EU processes and procedures for the allocation of EU financial assistance in relation to the transport, energy and telecommunications trans-European networks and so is redundant with no practical application as EU retained law following the UK's exit from the EU.

4. Equalities

4.1 The Parliamentary Under-Secretary of State, Baroness Sugg has made the following statement(s):

"The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

4.2 The Parliamentary Under-Secretary of State, Baroness Sugg has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the instrument, I, Baroness Sugg, Parliamentary Under-Secretary of State, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

5. Explanations

5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.