EXPLANATORY MEMORANDUM TO

THE CROSSRAIL (DEVOLUTION OF FUNCTIONS) ORDER 2010

2010 No. 988

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

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

2. Purpose of the instrument

2.1 This instrument has the effect of devolving to Transport for London the Secretary of State for Transport's land acquisition and associated powers in relation to the Crossrail project. The powers are being devolved to make administration of the Crossrail land acquisition process more efficient, and to remove the need for the Department for Transport to continue procuring independent consultancy advice in relation to Crossrail land acquisition.

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

3.1 None

4. Legislative Context

4.1 The Crossrail (Devolution of Functions) Order 2010 is made pursuant to Section 51 of the Crossrail Act 2008.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom but has practical effect only in England.

6. European Convention on Human Rights

6.1 Minister of State for Transport, Sadiq Khan MP has made the following statement regarding Human Rights:

In my view the provisions of the Crossrail (Devolution of Functions) Order are compatible with the Convention rights.

7. Policy background

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

7.1 The Crossrail Act 2008 gives the Secretary of State for Transport the necessary powers to build a railway running from Maidenhead and Heathrow in the west of London to Shenfield and Abbey Wood in the east. In practice, the project will be delivered by the nominated undertakers appointed under the Act, Crossrail Limited and London Underground Limited for the London Underground interface works. Crossrail Limited became a 100% subsidiary of Transport for London in December 2008.

7.2 Crossrail Limited's work involves an extensive land acquisition programme. Crossrail Limited administers this programme with the advice of Transport for London Group Property. Final approval of all acquisitions comes from the Secretary of State for Transport, who procures advice from an independent consultancy service. Once acquired, ownership of the majority of the land is then transferred to Transport for London which will be the long term owner of the new infrastructure.

7.3 Devolution to Transport for London of the powers to acquire land is desirable for two reasons. Firstly, it will streamline the acquisition process, reducing the need for multiple approvals from different organisations and removing the step of transferring land ownership from the Secretary of State to Transport for London. This will significantly reduce the administrative burden on all organisations involved. Secondly, it will remove the need for the Department for Transport's procurement of independent advice, meaning a considerable saving on the Department's consultancy spend.

7.4 The transition of acquiring authority from the Secretary of State to Transport for London is provided for in the instrument. There will be some acquisitions in progress when the Order comes into force. Article 13(2) of the instrument provides that acquisitions begun by the Secretary of State prior to devolution of powers can be continued by Transport for London as if Transport for London had begun the acquisition. There may also be some exceptional cases where the Secretary of State has retained ownership of land acquired before devolution. In these circumstances the Secretary of State will need to retain several powers over the land and these are provided for in articles 4 to 11 and 13(5) of the instrument.

7.5 In addition the instrument makes a number of supplementary, consequential and transitional provisions arising out of references to the Secretary of State having effect as references to Transport for London.

- ***Consolidation***

7.6 This instrument modifies the application of the Crossrail Act 2008, but as the consequence of the modifications affects only the Secretary of State and Transport for London no consolidated text is required.

8. Consultation outcome

8.1 The Department for Transport consulted the electricity, gas, water and sewerage undertakers who are likely to have multiple interests across the Crossrail route, together with the British Waterways Board, Network Rail and the Disabled

Persons Transport Advisory Committee. The consultation exercise lasted 12 weeks and ended on 5 November 2009. There were no comments on the draft Order.

9. Guidance

9.1 No guidance is required.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is none.

10.3 Accordingly, an Impact Assessment has 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 use of the powers devolved in the Order to Transport for London will be monitored under the governance arrangements established for the Crossrail project by the Secretary of State for Transport and Transport for London. No review is proposed as the devolution of powers is intended to have a permanent effect.

13. Contact

Helen Thomas at the Department for Transport Tel: 020 7944 5180 or email: helen.thomas@dft.gsi.gov.uk can answer any queries regarding the instrument.