EXPLANATORY MEMORANDUM TO

THE CROSSRAIL (INSERTION OF REVIEW CLAUSES) ORDER 2014

2014 No. 1367

1. This explanatory memorandum has been prepared by the Department for Transport.

2. Purpose of the instrument

This Order makes amendments to the *Crossrail (Nomination) Order 2008* and the *Crossrail (Qualifying Authorities) Order 2008* ("the parent instruments") to insert a statutory obligation on the Secretary of State to undertake a review, and to publish a report, by no later than 31st December 2021 and within every eight years after that date.

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

None.

4. Legislative Context

This Order 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 applies to England only.

6. European Convention on Human Rights

As the instrument is not subject to Parliamentary 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) a list 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 of the parent instruments, it was concluded that the provisions of the parent instruments might not be required once construction of Crossrail was completed. It was, therefore, decided to improve the parent instruments through the addition of a clause requiring the Secretary of State to review their provisions and publish a report.

7.3 The usual approach with review clauses of this kind has been to require a review after a maximum of five years following the bringing into force of the clause. However, since the parent instruments here relate to legal powers fundamental to underpinning the construction of a huge infrastructure project, the Department does not believe that it would be appropriate to begin to review their requirements until this phase has been completed and services on the Crossrail network become fully operational. As the Department expects the central section to be open in late 2018, with full services scheduled to be in place for late 2019, the Order ensures the results of the first review must be published by the Secretary of State by no later than 31st December 2021. The primary purpose of the first review will, therefore, be to consider whether the parent instruments can be fully revoked at that juncture.

- **Consolidation**

7.4 None.

8. Consultation outcome

8.1 Consultation on the rail theme of the *Red Tape Challenge* ran from 10 November to 19th December 2011 and elicited no comments on the parent instruments.

8.2 The enabling powers used to make the Crossrail (Nomination) Order 2008, which are contained in section 39 of the Crossrail Act 2008, require statutory consultation with the London Mayor. The Department therefore requested comments on its proposals in relation to both parent instruments from the Deputy Mayor for Transport and has also been in contact with Crossrail Ltd (a wholly owned subsidiary of Transport for London) to discuss the amendments. Neither body objected to the proposals although Crossrail Ltd did note that there may be some on-going responsibilities for nominated undertakers once construction of the network is complete. The Department notes that these issues will be considered as part of the review process and has, therefore, concluded that it should proceed with the insertion of the review clauses into the parent instruments as planned.

9. Guidance

Specific guidance on this Order is unnecessary because it simply inserts a statutory obligation on the Secretary of State to review the parent instruments' provisions.

10. Impact

A full regulatory impact assessment has not been produced for this Order as no significant 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

The Secretary of State will be required to undertake a review of the operation of the parent instruments' provisions, and to publish a report, by no later than 31st December 2021 and, if required, within every eight years after that date.

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 the instrument.