**EXPLANATORY MEMORANDUM TO**

**THE CROWN COMMERCIAL SERVICE TRADING FUND ORDER 2019**

**2019 No. 402**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before the House of Commons by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 This instrument effects the release from the Crown Commercial Service Trading Fund of the Whitehall District Heating System and Whitehall Standby Distribution System ("the Whitehall Systems") so that the Whitehall Systems cease to be appropriated as assets and liabilities of the Fund. It is intended that the Government Property Agency will operate and manage the Whitehall Systems.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Select Committee on Statutory Instruments***

3.1 None.

***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)***

3.2 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.

4.2 The territorial application 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 Fund Act 1973 ("the Act") provides a power at section 1 for any Minister of the Crown to establish trading funds by order exercisable with Treasury concurrence.

6.2 Pursuant to the power in the Act, the Buying Agency Trading Fund Order 1991 ("the Principal Order") established as from 1st April 1991, for the operations of the department of the Government known as the Buying Agency, the Buying Agency Trading Fund ("the Fund"). The Principal Order was amended and varied a number of times, including in 2004, by the OGCbuying.solutions Trading Fund (Appropriation of Additional Assets and Liabilities) Order 2004, which added the Whitehall Systems as additional Crown assets and liabilities of the Fund. The

OGCbuying.solutions Trading Fund (Extension and Amendment) Order 2009 extended and amended the description of the funded operations to comprise the procurement and supply of goods and services to or on behalf of the various bodies listed in the Schedule to the Order and the carrying out of incidental, conducive or ancillary operations. In 2014, the Fund's name was changed to the Crown Commercial Service Trading Fund by the Buying Agency Trading Fund (Amendment) Order 2014.

6.3 This instrument provides that the Whitehall Systems cease to be appropriated as assets and liabilities of the Fund. It also revokes the OGCbuying.solutions Trading Fund (Appropriation of Additional Assets and Liabilities) Order 2004. The effect of this is that these assets and liabilities will no longer form part of the trading fund and will once again form part of the department's vote-funded assets and liabilities. The intention is that the Whitehall Systems will be transferred to the Government Property Agency.

## 7. Policy background

***What is being done and why?***

7.1 The Crown Commercial Service ("CCS") is an executive agency and trading fund of the Cabinet Office. It was set up as part of a package of measures pursuant to the Civil Service Reform Plan 2012, to provide a complete end-to-end commercial service for Government. Managing the Whitehall Systems no longer aligns with CCS's role or future direction. Options for the transfer of the Whitehall Systems have been explored since 2014.

7.2 The Government Property Agency was created in April 2018 as an executive agency, sponsored by the Cabinet Office. It provides operational facilities management services to the Government Estate. Accordingly, it has been identified as the more appropriate body to manage and operate the Whitehall Systems. The Government Property Agency's board have approved the transfer of the governance and management of the Whitehall Systems with effect from 1 April 2019.

## 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 / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 As this is not an amending instrument, the question of consolidation does not arise at this time.

## 10. Consultation outcome

10.1 There has been no consultation outside Government given the nature of the change.

## 11. Guidance

11.1 We will inform users of the Whitehall Systems of the change of ownership.

## 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. The transfer of assets between the Crown Commercial Service Trading Fund and the Government Property Agency does not affect the users of the Whitehall Systems who are the occupants of twenty-two government buildings within the Whitehall area.

12.3 An Impact Assessment has not been prepared for this instrument because it concerns the structuring of Crown assets within Cabinet Office which are managed by a single contractor on behalf of the asset owner.

## 13. Regulating small business

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

## 14. Monitoring & review

14.1 There are no plans to subject the change to monitoring or review.

## 15. Contact

15.1 Malcolm Watson at the Crown Commercial Service Telephone: 07789 508135 or e-mail: Malcolm.Watson@crowncommercial.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Coombs at the Crown Commercial Service can confirm that this Explanatory Memorandum meets the required standard.

15.3 David Lidington, Minister for the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.