EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT RIGHTS (AMENDMENT, REVOCATION AND TRANSITIONAL PROVISION) REGULATIONS 2023

2023 No. XXXX

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The Retained EU Law (Revocation and Reform) Act 2023 ("the 2023 Act") amends the substance and underpinning rules of the body of law that is retained EU law established by the European Union (Withdrawal) Act 2018. The 2023 Act removes the interpretive effects of EU law on the UK statute book and includes powers to reform, restate and revoke legislation.

2.2 The Department for Business and Trade has identified three areas of employment law that we believe would benefit from reform to ensure that they are fit for purpose for both businesses and workers alike. Our assessment has found that these areas are currently either too onerous on business to be used effectively or too complex for workers to know, understand and use. The instrument also restates certain principles to ensure employment rights in those areas are maintained notwithstanding the changes to retained EU law that are provided for in the 2023 Act. Finally, this instrument revokes two pieces of legislation.

2.3 The three areas of reform are:

- Record keeping requirements under the Working Time Regulations 1998 ("WTR");
- Simplifying annual leave and holiday pay calculations under the WTR;
- Consultation requirements under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE").

2.4 Restatement: the 2023 Act removes the special EU law features that apply to retained EU law; the principle of supremacy of EU law, directly effective EU rights, and general principles of EU law, so that legislation on the UK statute book is interpreted and applied without reference to these features with effect from the end of 2023. The 2023 Act also facilitates domestic courts departing from retained case law.

2.5 The 2023 Act provides 'restatement' powers that enable legislation to be restated to produce an effect that is equivalent to the current effect that arises by virtue of being retained EU law and the application of those special EU law features.

2.6 The Government considers it appropriate to restate the following three principles to ensure that these employment rights are maintained; and that the law has the same effect in practice as it did prior to those special EU law features being removed:

- The right to carry over annual leave where an employee has been unable to take it due to being on maternity or other family related leave or sick leave;

- The right to carry over annual leave where the employer has failed to inform the worker of their right to paid annual leave or enable them to take it; and
- The rate of pay for annual leave accrued under regulation 13 of the WTR.

2.7 In addition, the SI will revoke the European Cooperative Society (Involvement of Employees) Regulations 2006 and the Working Time (Coronavirus) (Amendment) Regulations 2020.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Wales and Scotland, except that Part 1 (introductory) and Part 5 (the European Cooperative Society) extend to England, Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales, Scotland and Northern Ireland.

4.3 Although parts of the TUPE regulations extend to Northern Ireland, Part 4 (transfer of undertakings) of this instrument only amends regulation 13A of the TUPE regulations (micro-business's duty to inform and consult where no appropriate representatives), which only applies in England, Scotland and Wales. The TUPE regulations as they apply to Northern Ireland will be unaffected.

5. European Convention on Human Rights

5.1 The Minister for Enterprise, Markets and Small Business, Kevin Hollinrake MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument makes amendments to domestic secondary legislation originally made and brought into force in part as a result of the United Kingdom's obligations as a member of the European Union. The WTR and the TUPE regulations are domestic regulations which were made using powers that include section 2 (2) of the European Communities Act 1972 ("1972 Act") to implement provisions set out in various EU directives and related matters. The EU (Withdrawal) Act 2018 revoked the 1972 Act and retained certain types of EU law (known as "retained EU law").

6.2 The 2023 Act enables government to reform, restate and revoke retained EU law as it considers appropriate, and in accordance with the other relevant requirements and restrictions that apply to the exercise of the powers to make regulations in the 2023 Act. The 2023 Act also ends the special EU law features that apply to retained EU law, including the principle of supremacy of EU law.

6.3 Section 11(1) of the 2023 Act provides the power to restate any secondary retained EU law, as defined in the 2023 Act. A restatement may where the national authority

considers it appropriate, produce an effect equivalent to the effect produced by virtue of those special law features referred to in paragraph 2.4 above.

6.4 Section 14(1) of the 2023 Act provides the power to revoke any secondary retained EU law. Section 14(3) provides the power to revoke any secondary retained EU law and replace it with such alternative provision as the relevant national authority considers appropriate and that is in accordance with any other relevant requirements or restrictions on the exercise of the power set out in the 2023 Act. For example, no provision may be made under section 14 unless the relevant national authority considers that the overall effect of the changes made by it under that section in relation to that subject area do not increase the regulatory burden.

6.5 Section 20(1) of the 2023 Act states that "a power to make regulations under this Act" includes a power to make different provision for different purposes or areas and also includes the power to make "supplementary, incidental, consequential, transitional, transitory or saving provision".

6.6 Section 13 of the Work and Families Act 2006 provides the power to make provision conferring on workers the right, except in prescribed cases, to a prescribed amount of annual leave in each leave year.

6.7 Section 13(2) provides that the regulations can include provisions:

- For determining the amount of annual leave to which workers are to be entitled;
- For determining the amount of pay in respect of any period of leave which is required by the regulations to be paid leave;
- Enabling a worker to elect when to take leave to which he is entitled by virtue of the regulations, subject to any provision of the regulations enabling his employer to require him to take, or not to take, that leave at a particular time;
- For the payment of compensation in prescribed cases to a worker who has not taken leave to which he is entitled;
- As to the relationship between the rights conferred by the regulations and a worker's rights to leave, pay or compensation under any contract or under any Act or subordinate legislation;
- To enable a worker to present a complaint to an employment tribunal that his employer has refused to permit him to exercise any right he has under the regulations or has failed to pay him any amount due to him under the regulations.

6.8 Section 13(6)(c) of the Work and Families Act 2006 provides that regulations may contain incidental, supplemental, consequential, transitional or saving provision, including provision amending any Act or subordinate legislation.

7. Policy background

What is being done and why?

Reforms

Record keeping requirements under the Working Time Regulations 1998 ("WTR")

7.1 Having left the European Union, the Government has been taking the opportunity to review record keeping requirements under the WTR. We carried out a consultation to

assess whether the rules that currently apply work in the best interests of businesses and workers and deliver on the Government's objective of creating the conditions for growth. Having considered the evidence gathered, we consider that it is appropriate to use the 2023 Act's power under s.14 (powers to revoke or replace) to amend Regulation 9 of the WTR to clarify that businesses do not have to keep a record of the daily working hours of their workers if they are able to demonstrate compliance without doing so.

Explanations

What did any law do before the changes to be made by this instrument?

7.2 Regulation 9 of the WTR provided that employers must keep adequate records to demonstrate compliance with certain aspects of the WTR, including the maximum weekly working time, length of night work, and provisions requiring health assessments being offered to night workers.

7.3 However, the 2019 judgment of the Court of Justice of the European Union (Federación de Servicios de Comisiones Obreras (CCOO) v Deutsche Bank SAE) ("CCOO case") ruled that employers must have an objective, reliable and accessible system enabling the duration of time worked each day by each worker to be measured. This case held that records must be kept in relation to the right to a minimum daily rest period of 11 consecutive hours in each 24-hour period; the right to a minimum uninterrupted period of rest of 24 hours in each seven-day period; and the limit on the maximum weekly working time.

Why is it being changed?

7.4 The Government believes that requiring employers to record the duration of time worked each day by each worker via an objective, reliable and accessible system is disproportionate, particularly while the economy is recovering from the impact of the Covid-19 pandemic and the impacts of war in Ukraine. This does not give workers new substantive rights, and we believe in many cases such an obligation on employers to record the duration of time worked each day by each worker would be damaging to relationships between employers and their workers. The instrument will remove the uncertainty and the potential high cost of implementing a system of recording working hours and provide legal clarity on the record-keeping requirements in the WTR.

What will it now do?

7.5 The effect of this instrument is that the record-keeping obligations of employers under regulation 9 of the WTR are not as provided by the decision in the CCOO case.

What is being done and why?

Simplifying annual leave and holiday pay calculations in the WTR

7.6 The main pieces of legislation that govern the right to paid annual leave are the Employment Rights Act 1996 and the WTR. The WTR implement the EU Working Time Directive.

7.7 Over time the legislation and case law has become complicated for employers (particularly employers of irregular hours workers and agency workers) to interpret and follow correctly. Therefore, there is a risk that in some cases it may not achieve its original intention.

7.8 The Government conducted two consultations on holiday pay this year. The first consultation ran from January to March 2023 and sought views on calculating holiday entitlement for part-year and irregular hours works following the Supreme Court ruling in the Harpur Trust v Brazel case. The second consultation sought views on wider reforms to holiday pay and entitlement policy, including creating a single annual leave entitlement and defining a single rate of holiday pay and introducing rolled-up holiday pay ("RHP").

7.9 Having considered the evidence gathered, the Government has decided that it is appropriate to amend the WTR so that irregular hours and part-year workers' annual leave entitlement is pro-rated to the hours they work; introduce an accrual method for calculating holiday entitlement for certain workers; repeal the Covid Regulations; and introduce RHP for irregular hours and part-year workers. The aim of these changes is to minimise unnecessary bureaucracy for businesses (and so make compliance easier) without reducing workers' overall level of entitlement and protection.

Explanations

What did any law do before the changes to be made by this instrument?

7.10 The Working Time (Coronavirus) (Amendment) Regulation 2020 (S.I. 2020/365) ("the Covid Regulations") came into force in March 2020 as emergency temporary legislation to prevent workers losing annual leave entitlement if they were unable to take it due to the effects of the Covid-19 pandemic. The Covid Regulations amended the WTR to permit workers to carry over up to 4 weeks of annual leave into the following two leave years, if it was not reasonably practicable for a worker to take this leave in the year to which it related. The Covid Regulations were introduced in March 2020 as emergency temporary legislation to prevent workers from losing annual leave entitlement if they were unable to take it due to the effects of coronavirus. They amended the Working Time Regulations to allow workers to carry over the four weeks of regulation 13 leave into the following two leave years, if it was not reasonably practicable for a worker to take this leave in the year to which related.

7.11 The case of Harpur Trust v Brazel concerned calculating holiday entitlement and pay of a permanent part-year worker on a zero hours contract. The Supreme Court held that the correct interpretation of the WTR is that holiday entitlement for part-year workers should not be pro-rated so that it is proportionate to the hours they work. They are entitled to the full 5.6 weeks of statutory annual leave, calculated using the 52-week reference period. In summary, the effect of the judgment is that part-year workers are entitled to a larger annual leave entitlement than part-time workers who work the same number of hours across the year.

7.12 Under regulation 15A of the WTR, workers accrue their annual leave in the first year of their employment at the rate of one twelfth of their 5.6 weeks' entitlement, on the first day of the month. This is straightforward for workers with fixed hours or working patterns as their annual leave is usually expressed in weeks or days. However, this is at odds with regulation 13(5) and 13A(5) which set out how to pro-rate holiday entitlement when a worker starts or leaves midway through a leave year

7.13 Workers are entitled to 5.6 weeks of paid statutory annual leave. This is comprised of 4-weeks leave provided in regulation 13 (also known as EU-derived leave) and 1.6 weeks provided in regulation 13A (domestic) leave. Different rules govern these two separate pots of annual leave, due mostly to the abundance of retained EU case law. This case law provides that the regulation 13 leave should be paid at the worker's

"normal remuneration", but it does not definitively define normal remuneration though it is generally understood to include certain types of bonuses and commission. In contrast, the 1.6 weeks of regulation 13A leave is only required to be paid at the worker's "basic remuneration" and this is generally held not to include bonuses and commission. The 2023 Act removes EU interpretive effects, creating a risk that the case law defining what should be included in "normal remuneration" would fall away.

7.14 RHP describes a practice in which a worker receives their holiday pay as an enhancement with every payslip rather than receiving it when they take annual leave. A 2006 judgment from the Court of Justice of European Union (CJEU) declared this practice to be unlawful, holding that payment needed to be made at the same time as leave was taken.

What will it now do?

7.15 The Covid Regulations are repealed with effect from 1 January 2024 so that workers will no longer be able to accrue Covid carry-over leave (i.e., the 4 weeks of regulation 13 leave). Workers will however still be able to use all the Covid carry-over leave they accrued prior to 1 January 2024, provided they do so on or before 31 March 2024. Repealing the Covid Regulations does not affect a worker's right to carry over 1.6 weeks of regulation 13A (domestic) leave.

7.16 Workers' overall level of entitlement will remain the same as the minimum entitlement to 5.6 weeks of leave in regulation 13 and 13A are unaffected. Wider protections that workers are afforded by the WTR, such as the 48-hour working week, are also unaffected.

7.17 Employers will be permitted to calculate annual leave entitlement as 12.07% of the hours worked in a pay period for irregular hours workers and part-year workers in the first year of employment and beyond. Regular hours workers who know their hours will continue to accrue annual leave in their first year of employment as they do now - (i.e., they receive 1/12th of their statutory entitlement at the end of each month during this first year) and to pro-rate it thereafter.

7.18 Irregular hours workers and part-year workers are defined in new regulation 15F of the WTR, which is inserted by this instrument.

7.19 This instrument introduces a method to calculate how much leave is accrued when irregular hours workers and part year workers take maternity leave or other family related leave (which will be defined as 'statutory leave'). Employers will be able to look back over a 52-week reference period to calculate an average of hours worked across that period. Employers would need to include weeks not worked and not on statutory leave, so that the amount of accrued leave is proportionate to the time worked.

7.20 The two distinct pots of annual leave with the two minimum rates of pay are maintained. Workers will continue to receive 4 weeks of annual leave at their "normal remuneration" and 1.6 weeks at their basic remuneration. However, this instrument amends the WTR by incorporating into regulation 16 certain principles from retained EU case law to specify the types of payments employers must include when calculating a week's holiday pay. The aim is, as far as possible, to ensure that workers' enjoyment of the right to paid annual leave is maintained.

7.21 Employers will be permitted to calculate the holiday pay for irregular hours workers and part year workers using RHP should they wish to. Workers will not be able to

request that they receive RHP. It will be the employer's choice whether to use RHP, continue to use a reference period for calculating annual leave, or to offer both. If employers choose to use RHP, they will be required to calculate a worker's holiday pay as 12.07% of the worker's total earnings within a pay period. They would not calculate RHP by calculating 12.07% a worker's normal remuneration and basic remuneration separately. The employer will be required to pay the worker with each payslip, rather than when the leave is taken as had previously been required under European case law, and the Government expects employers to clearly mark RHP payments as separate items on each payslip.

7.22 In addition to restating principles from European case law already mentioned above, the instrument also preserves workers' right to carry over annual leave which they have not taken due to being on statutory sick leave or maternity/family-related leave and to carry over annual leave that they have not taken because their employer did not inform them of their right or provide them with an opportunity to take it.

Why is it being changed?

7.23 The Government is removing the provisions of the Covid Regulations as it is felt that they are no longer needed. The changes to clarify that irregular hours and part-year workers' holiday entitlement is pro-rated, to introduce the accrual method of calculating entitlement as 12.07% of hours worked and to introduce RHP are intended to ensure: a) workers' holiday entitlement better reflects the hours they work across the year; b) it is easier for businesses to accurately calculate entitlement for workers with irregular hours where the use of a reference period is not practical; and c) that workers have a clearer understanding of their entitlement.

Consultation requirements under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE").

What is being done and why?

7.24 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) implement the EU Acquired Rights Directive. The purpose of the TUPE Regulations is to protect employees' employment rights when the business or undertaking for which they work transfers to a new employer. TUPE may also apply when a business changes owner, or when a service transfers to a new provider (for example when another company takes over a cleaning contract).

7.25 We are extending the current flexibility for employers to consult directly with employees is extended to small businesses (with fewer than 50 employees) and to businesses of all sizes involved in transfers of fewer than 10 employees. Having considered the evidence gathered, the Government has decided that it is appropriate to use the Retained EU Law Act's s.14 powers to make this change.

Explanations

What did any law do before the changes to be made by this instrument?

7.26 Currently, in advance of a TUPE transfer, the current employer (the transferor) and the new employer (the transferee) need to inform and consult with the affected workforce's existing representatives or arrange elections for employees to elect new representatives if they are not already in place before the transfer.

7.27 Under Regulation 13A of the TUPE regulations, microbusinesses (with fewer than 10 employees) are already exempt from having to elect new worker representatives if they do not already have representatives in place. Instead, these businesses can consult their employees directly (if this is their preference).

What will it now do?

7.28 The instrument will reform the TUPE regulations by extending the existing Regulation 13A microbusiness exemption. Small businesses (with fewer than 50 employees) and businesses of any size undertaking small transfers of fewer than 10 employees will be eligible to consult directly with their employees if they do not already have worker representatives in place. This means that eligible businesses will not have to facilitate elections for new worker representatives.

7.29 The instrument is only making changes to these specific elements of the consultation requirements for TUPE transfers.

Why is it being changed?

7.30 The Government is aware that employers can find some elements of the TUPE regulations burdensome, including the consultation requirements. Extending the Regulation 13A exemption will make transfers easier and quicker for eligible businesses, introducing additional flexibility for more businesses while retaining important protections for employees.

7.31 Many business representative organisations which responded to the consultation agreed that the changes would make TUPE transfers simpler.

Restatement / codification of interpretive effects in three areas of Employment law

What is being done and why?

7.32 A commitment was made in Parliament during the passage of the 2023 Act not to reduce workers' rights. The Government is proud of the UK's record on employment standards. To mitigate risks that the removal of interpretive effects on employment law could lead to a reduction in workers' rights it is appropriate to use the 2023 Act's 'restatement' powers to maintain existing policy effects which are specifically produced by the application of retained EU-derived principles of interpretation.

7.33 DBT's assessment is that these rights are largely or wholly dependent on the special features of EU law that are removed by the 2023 Act.

7.34 Therefore, the instrument will restate the following three principles before the end of 2023 to ensure these employment rights continue, notwithstanding the removal of the special features of EU law by the 2023 Act:

- The right to carry over holiday entitlement where a worker has been unable to take it due to being on maternity/family related leave or sick leave;
- The right to carry over holiday entitlement where the employer has failed to inform the worker of their right to paid annual leave or enable them to take it; and
- The pay rate for leave entitlement accrued under regulation 13 of the WTR.

What did the law do before the changes made by this instrument?

7.35 The effect of the law currently provides the three employment rights outlined above at 7.34.

What will it now do?

7.36 The instrument restates the current effect of the law and makes specific provision for these three rights outlined above in order to provide greater legal certainty in relation to the continuation of those employment rights.

Why is it being changed?

7.37 As noted, the Government has made a commitment not to reduce workers' rights.

Revocation of regulations

What is being done and why?

7.38 We are revoking the European Cooperative Society (Involvement of Employees) Regulations 2006 and the Working Time (Coronavirus) (Amendment) Regulations 2020.

What did the law do before the changes made by this instrument?

7.39 The European Cooperative Society (Involvement of Employees) Regulations 2006 ("IOE Regulations") were made using powers under section 2 of the European Communities Act 1972. The main European Cooperative Society Regulations were repealed in 2021 and the IOE Regulations therefore no longer have any effect in practice and the revocation tidies up the statute book.

7.40 The Working Time (Coronavirus) (Amendment) Regulations 2020 amended regulation 13 of the WTR to ensure that workers for whom it was not reasonably practicable to take annual leave to which they were entitled under the WTR due to the coronavirus pandemic could carry over it over into the following two leave years. Now that the worst of the pandemic has passed, the amendments made by those regulations are no longer thought to be necessary.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union because it relates to the restatement and reform of retained EU Law under the provisions of the Retained EU Law (Revocation and Reform) Act 2023 which are mentioned above.

9. Consolidation

9.1 No consolidation applies.

10. Consultation outcome

10.1 A full public UK wide consultation was conducted on the record keeping requirements under the Working Time Regulations; simplifying annual leave and holiday pay calculations in the Working Time Regulations; and the consultation requirements under the TUPE, Regulations. The 8-week consultation was open from 12 May 2023 - 7 July, and 1916 responses were received.

10.2 A further consultation was conducted on calculating holiday entitlement for part-year and irregular hour workers following the Supreme Court ruling in the Harpur Trust v Brazel case. The 8-week consultation was open from 12 January 2023 – 9 March, and 1016 responses were received.

10.3 During the consultations, an extensive engagement exercise was carried out consisting of meetings and roundtable discussions with a range of organisations including business representatives, unions, legal bodies, devolved governments, other government departments and consultancies. This included engagement with the Welsh Government and the Scottish Government.

10.4 On the proposals on recording requirements there appears to have been a misconception by respondents that the policy intent was to reduce current record keeping requirements, when the proposal was to remove the risk of a change in these requirements as a result of the judgment in the CCOO case. To clarify current standards and protect workers' rights the Government will remove the effects of the judgment in the CCOO case.

10.5 The Government will not at this time be introducing a single annual leave entitlement as it is clear from the responses that this would only be beneficial if we have a single rate of holiday pay. Instead, we will maintain the two distinct 'pots' of annual leave and the two existing rates of holiday pay so that workers continue to receive 4 weeks at normal rate of pay and 1.6 weeks at basic rate of pay. On the proposal to introduce rolled-up holiday pay as an option for all workers, despite mixed responses there are still clear benefits to business and workers in introducing this system. The main benefits identified were in relation to irregular-hours and part-year workers where this would significantly reduce the administrative burden to business of calculating holiday pay for these workers. The Government will therefore introduce rolled up holiday pay for irregular hours workers and part-year workers, which would include some agency workers.

10.6 On the proposal regarding an accrual method of calculating holiday entitlement as 12.07% of hours worked in each pay period for workers in the first year of employment, feedback from stakeholders has been that overall, employers preferred using the accrual method of calculating holiday entitlement, even beyond the worker's first year of employment. The Government is introducing an accrual method to calculate entitlement at 12.07% of hours worked in a pay period for irregular hour workers and part-year workers in the first year of employment and beyond. Other workers will continue to accrue annual leave in their first year of employment as they do now by receiving 1/12th of the statutory entitlement at the end of each month and to pro-rate it thereafter.

10.7 On TUPE, although some respondents expressed concerns about the changes adversely affecting the rights of employees involved in transfers and the quality of the consultation, the planned reforms will not change the existing requirement on businesses to consult employees on transfers.

10.8 The Government Response to the public consultation is published on gov.uk here: www.gov.uk/government/consultations/retained-eu-employment-law-reforms.

11. Guidance

11.1 The Health and Safety Executive is currently working on updating guidance for the record keeping requirements of the Working Time Regulations and will publish this in line with the commencement of this legislation. The statutory guidance will set out what employers and workers must do to comply with the law. The guidance that we intend to include is not legal advice and should not be relied upon as such.

11.2 The Government will publish specific guidance for workers and employers. It will set out example calculations for employers to help them adapt to the new methods of calculating holiday entitlement and holiday pay. This guidance and the calculations that we intend to include are not legal advice and should not be relied upon as such.

11.3 Once the changes come into effect, we will update the Gov.uk guidance for employers in relation to TUPE elections, to highlight that the microbusiness exemption has been extended.

12. Impact

12.1 The impact on business, charities or voluntary bodies is:

- For the Working Time Regulations reforms, an annual saving to business of £1.2 bn a year from avoiding disproportionate record-keeping requirements;
- For the Holiday Pay reforms, an annual saving to business of £74.7m from ensuring holiday pay and entitlement is proportionate to the time that irregular hours and part-time workers spend working. There will be additional (non-monetised) admin savings from simplifications to Holiday Pay rules; and
- For the changes to TUPE regulations, a small admin saving for businesses who choose to consult their workers directly in a TUPE transfer.

12.2 The impact on the public sector is that these reforms are economy-wide and therefore will affect the public sector, albeit we expect the impact on the public will be small or negligible for each change. Please see the relevant Impact Assessment for more detail.

12.3 Full Impact Assessments are submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

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

14. Monitoring & review

14.1 As this instrument is made under the Retained EU Law (Revocation and Reform) Act 2023, no review clause is required.

15. Contact

15.1 Derek Kelly at the Department for Business and Trade, Telephone: 07920 284924 or email: derek.kelly@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

15.2 Laura Robinson and Richard Kelly, joint Deputy Directors for Strategy & International at the Department for Business and Trade can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Minister for Enterprise, Markets and Small Business, Kevin Hollinrake MP, at the Department for Business and Trade can confirm that this Explanatory Memorandum meets the required standard.