EXPLANATORY MEMORANDUM TO

THE PUBLIC SERVICE OBLIGATIONS IN TRANSPORT REGULATIONS 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport (DfT) and is laid before Parliament by Command of His Majesty.

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

2. Purpose of the instrument

2.1 This instrument revokes Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road [1]("Regulation 1370/2007"); and replaces it (for Great Britain) with alternative provisions which are largely equivalent to Regulation 1370/2007, while making certain improvements to support its more effective operation in Great Britain following EU exit. Regulation 1370/2007, and this instrument, are concerned with the award of contracts for public passenger transport services that contain public service obligations (PSOs), i.e., obligations to provide services that would not be performed on a purely commercial basis.

2.2 The instrument retains an important power in Regulation 1370/2007 which permits the making of direct awards of PSO contracts for passenger transport by rail and contains new provisions to ensure the Government is able to meet obligations under the UK-EU Trade and Cooperation Agreement (TCA)[2].

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Section 14 of the Retained EU Law (Revocation and Reform) Act 2023 ("the Act") contains powers to revoke and replace retained EU law ("REUL") with the caveat, under section 14(5) of the Act, that no provision may be made "in relation to a particular subject area unless the relevant national authority considers the overall effect of the changes made by it under this section (including changes made previously) in relation to that subject does not increase the regulatory burden". The Act defines "burden" as including a financial cost, an administrative inconvenience, an obstacle to trade or innovation, an obstacle to efficiency, productivity, or profitability.

3.2 This instrument does not increase the regulatory burden, as while it does make changes to take advantage of post-EU exit flexibilities, it is primarily focused on maintaining the status quo in a Great Britain context and aligning the provisions of Regulation 1370/2007 with other domestic subsidy and procurement legislation in operation in Great Britain, as well as ensuring compliance with the TCA. The

[1] OJ L 315, 3.12.2007, p. 1–13

[2]https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982648/TS_8.2021_UK_EU_EAEC_Trade_and_Cooperation_Agreement.pdf

principal changes are removing the sunset provision relating to the power to make direct awards (at Article 5(6) of Regulation 1370/2007), which maintains rather than changes the powers currently available to contracting authorities and reducing the limitation period to be in line with the main domestic subsidy and procurement regimes.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales, and Scotland.

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

5. European Convention on Human Rights

5.1 The Minister of State for Transport, Huw Merriman MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Public Service Obligations in Transport Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 Under section 3 of the European Union (Withdrawal) Act 2018, Regulation 1370/2007 was retained in the domestic law of Great Britain.

6.2 Regulation 1370/2007 applies to the award of PSO contracts for passenger services by rail and other track-based modes (excluding tramways) and to PSO contracts for passenger services by bus or tram, as defined in regulation 2, that are structured as concession contracts (i.e. contracts where at least part of the consideration for the award of the contract is the right to exploit the service and the operator is exposed to real operating risk). Other bus and tram service contracts are currently awarded in accordance with the Public Contracts Regulations 2015 (S.I. 2015/102) (but will be covered by the Procurement Act) and the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446).

6.3 Regulation 1370/2007 was amended by Regulation 2016/2338[3]. Regulation 2016/2338 was part of the "Fourth Railway Package", which was aimed at opening the EU rail market to competition. The "Fourth Railway Package" was made up of various items of EU legislation covering both technical standards and rail markets. Regulation 2016/2338 formed part of the "Market Pillar", with the aim of promoting a greater use of competitive processes for letting PSO contracts. One of the changes made by Regulation 2016/2338 was the introduction of a sunset provision whereby Article 5(6) of Regulation 1370/2007, which permits ten-year direct awards of PSO contracts, would cease to apply on 25 December 2023.

6.4 Amendments were made to Regulation 1370/2007 by the Regulation (EC) No 1370/2007 (Public Service Obligations in Transport) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/504) to remove certain deficiencies in Regulation 1370/2007 arising out of the UK leaving the European Union but otherwise it was

[3] Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail; https://www.legislation.gov.uk/eur/2016/2338/contents

preserved as the legislative framework for the award of PSO contracts. Further minor deficiencies in Regulation 1370/2007 were corrected by the State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470).

6.5 This instrument is made in exercise of powers in sections 14(2) and (3) and 20(1) of the Act. These powers give the UK Government and the devolved authorities the ability to revoke any secondary REUL and to replace it. Section 14(2) permits revocation and replacement with such provision as the national authority considers appropriate to achieve the "same or similar objectives". This power is being used to revoke most of the provisions in Regulation 1370/2007 and to replace them with equivalent provisions in domestic legislation. Section 14(3) allows for revocation and replacement with such alternative provision as the Minister considers appropriate. It is under section 14(3) that provisions reducing the limitation period for challenge and standing have been introduced (see below) and some other more limited changes have been made. Section 20(1)(b) provides that "a power to make regulations under this Act" also includes the power to make "supplementary, incidental, consequential, transitional, transitory or saving provision". It is under this power that that the consequential amendments (including to the Railways Act 1993 and the Subsidy Control Act 2022 – see paragraph 7.22, below) and the saving and transitional provision for procurements begun before 25 December 2023 are being made (see paragraph 8.2, below).

7. Policy background

What is being done and why?

7.1 This instrument takes advantage of the benefits provided by the UK's position outside the EU to revoke and replace Regulation 1370/2007 to better meet the needs of the railways in Great Britain, while retaining its substantive provisions and its status as a separate procurement and subsidy regime from the mainstream regimes, i.e., the EU-derived regulations (to be replaced by the Procurement Act) and the Subsidy Control Act 2022. It replaces the EU principles contained in Regulation 1370/2007 with objectives that are consistent with those included in the Procurement Bill in relation to England and Wales, and with the principles in the Public Contracts (Scotland) Regulations 2015 in relation to Scotland. In addition, it codifies relevant EU case law thereby providing clarity and certainty to authorities and contractors. In making these changes in relation to rail, this instrument implements the changes which formed part of the formal public consultation on the implementation of the Government's Plan for Rail (the Plan for Rail consultation)[4] in early summer 2022, emphasising the Government's commitment to reforming and improving the railway.

7.2 In recognition of the special status of public passenger services and their role in critical national networks and the delivery of important services for passengers, the EU-derived procurement regulations (shortly to be replaced by the Procurement Act) and the Subsidy Control Act 2022 contain exemptions from the mainstream procurement and subsidy control requirements for contracts procured under Regulation 1370/2007. Regulation 1370/2007 provided authorities with more flexibility than under the mainstream regimes allowing them to award passenger

[4] https://www.gov.uk/government/consultations/williams-shapps-plan-for-rail-legislative-changes-to-implement-rail-reform

services contracts efficiently via simpler competitive processes, and when necessary, via direct award.

7.3 The instrument simplifies the wording and structure used in Regulation 1370/2007 and adapts its language to UK legal drafting conventions. It also removes ambiguities and conflicting interpretations to provide greater clarity (as described further below).

7.4 This instrument contains provisions relating to subsidy control that will enable compliance with the TCA. These provisions relate to the giving of contract award notices, the right to ask for pre-action information, clarification of who may bring a challenge and the addition of a remedy of recovery of unlawful subsidy. Drafting has been aligned with the Subsidy Control Act 2022.

Explanations

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

7.5 Regulation 1370/2007 set out conditions for the award of PSO contracts, including how they were to be competitively tendered and specified the circumstances in which they could be directly awarded. It provided conditions for the mandatory content of PSO contracts, publication requirements and limitations on the payments that could be made to PSO operators to ensure that an operator did not receive unreasonable levels of profit. In relation to all PSO contracts for public passenger transport by rail and other track-based modes apart from tramways, and in relation to contracts for bus and tram services that were in the form of concession contracts, the default mechanism for an award of a PSO contract was through a competitive tendering process. However, Regulation 1370/2007 provided that, in certain circumstances, it may be necessary to award such PSO contracts without competition but instead by direct award. Article 5 of Regulation 1370/2007 contained the circumstances by which a direct award could be made. In particular, Article 5(6) provided a broad provision for a direct award of contracts for rail services. These powers were used extensively during the COVID-19 pandemic to support the continued operation of rail services when competitive contracts were no longer viable due to very high levels of uncertainty. As explained in paragraph 6.3, Article 5(6) was due to cease to apply on 25 December 2023 due to the sunset provision in Regulation 1370/2007.

Why is it being changed?

7.6 This instrument retains the direct award power at Article 5(6) of Regulation 1370/2007, without which DfT and other authorities such as Transport Scotland, Transport for Wales and Transport for London (TfL) would lose the flexibility provided by Article 5(6), which is currently relied on for rail PSO contracts. Requirements in Regulation 1370/2007 in respect of competitive tenders and the other more specific and conditional direct award powers have been left intact.

7.7 Regulation 1370/2007 did not comply with the TCA's subsidy control chapter. Provisions have therefore been added to the instrument to enable compliance with the TCA for Great Britain.

7.8 Although the instrument largely adapts the language used in Regulation 1370/2007 to UK legal drafting conventions, in some instances it was deemed more appropriate to replicate the previous Regulation 1370/2007 drafting to ensure no additional burdens are imposed on industry and to avoid any unintended impacts. This is the case for example in regulation 27 of the instrument, which largely restates the language used in Article 8 of Regulation 1370/2007. In some places the drafting has been simplified.

This is the case in relation to Article 4(8) of Regulation 1370/2007 where the obligation on rail infrastructure managers has been removed in light of the lack of a formal sanction for breach of this provision, the extensive engagement that already takes place between infrastructure managers and competent authorities and the obligation imposed on infrastructure managers under the Railways (Access, Management and Licensing of Railway undertakings) Regulations 2016 to provide information in the form of a network statement.

7.9 Under the Act, EU case law will no longer be binding on UK Courts after 31 December 2023. Relevant EU case law relating to procurement notices and to in-life change ("material change"), which was not codified by Regulation 1370/2007, has been relied on for clarity by authorities and contractors. The relevant EU case law is therefore being codified by this instrument as it provides helpful clarity. Likewise, EU principles will no longer apply to underpin PSO procurements from the year end, and the instrument replaces these with principles based on the new UK mainstream procurement regime for England and Wales, and with principles based on Scottish procurement law in relation to Scotland.

7.10 Northern Ireland has a separate regime and is therefore not included in this instrument.

What will it now do?

7.11 This instrument largely maintains the status quo and retains the applicability of, and the majority of the provisions of, Regulation 1370/2007, while making certain changes to improve the effectiveness of this particular procurement regime following EU exit. Below is a summary of what this instrument does and the changes that it makes.

7.12 **Enforcement provisions:** This instrument limits to one month, from three months in the case of judicial review claims and six years in the case of private law claims for breach of statutory duty, the period in which a challenge may be brought in the courts in relation to the award of a PSO contract. This new limitation period, which applies to both judicial review challenges and private law claims, is in line with time limits in the wider domestic subsidy and procurement regimes. This maximises certainty for UK granting authorities by having a relatively short time limit for bringing a challenge to an award, whilst still providing appropriate protections for private sector bidders to ensure a fair and proper process. The instrument also introduces "standing" requirements to clarify who may bring a claim if they believe a competent authority has failed to comply with the relevant provisions of the instrument when entering into a PSO contract. These requirements are aligned with those in the subsidy control regime, again ensuring clarity and consistency for industry bodies. In addition, it introduces a new remedy of recovery of unlawful subsidy; this is to comply with the TCA and is in line with the Subsidy Control Act 2022.

7.13 **Direct Award Powers:** This instrument removes the sunset provision[5] in Regulation 1370/2007 in relation to Article 5(6) and retains this provision in domestic law. It also retains the more specific direct award powers at Articles 5(3)(a) and 5(4)(a). It will be for an authority to assess whether a direct award is appropriate and which direct award power to rely upon. DfT has retained these provisions to ensure that the existing flexibilities to make direct awards for the provision of passenger services are fully retained beyond 2023. While the Government remains committed to reintroducing a

[5] Article 8(2)(iii) Regulation 1370/2007.

competitive process for the award of passenger rail contracts, retaining the direct award flexibilities is important to ensure the effective continued operation of passenger rail services.

7.14 **Prior Information Notice (PIN) notice period:** Article 7 of Regulation 1370/2007 covered publication of notices and Article 7(2) set out the requirement to publish a Prior Information Notice (PIN) in advance of an Invitation to Tender ("ITT") or direct award. This instrument clarifies Article 7(2) so that the "launch", which signals the end of the one-year notice period, means the earlier of the publication of documents on the competent authority's website or their issue to prequalified bidders. For direct awards, the instrument clarifies that the publication period runs to the entering into of the award. This ensures greater certainty as to when PINs informing the market of upcoming Invitations to Tender or direct awards must be published.

7.15 **Definitions:** this instrument defines a number of terms used in Regulation 1370/2007 to aid interpretation and ensure greater legal certainty.

7.16 **Codification of existing EU case law on "material change" and notification and publication of PINs:** As above, EU case law will no longer be binding on UK Courts after 31 December 2023. This instrument codifies relevant case law. Contracts could, under principles set out in the *Pressetext*[6] line of EU case law, be changed without a fresh procurement where the changes were not material. The principles established in this case were codified into mainstream procurement law by regulation 72 of the Public Contracts Regulations 2015 but were not codified in Regulation 1370/2007, which predated the judgement. These "material change" principles were however considered to apply to procurements under Regulation 1370/2007. This instrument, pursuant to section 14 of the Act, codifies these principles. It adopts a similar approach to the Procurement Bill. This change provides clarity to authorities and contractors and reduces uncertainty.

7.17 Regulation 1370/2007 required 12 months' notice from the publication of a PIN to a direct award or the launch of an ITT for a competed award. EU case law (*Rudigier* (C518/17) and (C-515/18)), however, provides that objections cannot be raised because of a technical breach of this timescale and that a challenger needs to demonstrate that they have been significantly disadvantaged by the lack of prior information. To assist interpretation, this instrument sets out the purpose of prior information notices for direct awards and competitions. The purpose of publications for direct awards is to allow interested parties to object to the principle of making a direct award; the purpose of publications for competitions is to allow interested parties to take part effectively in that competition and prepare for tender. This instrument codifies the *Rudigier* case to prevent challenge where the 12-month rule is breached but a notice achieves its purpose.

7.18 **Objectives and general principles:** EU law includes general principles such as transparency, non-discrimination, and fairness; through operation of the Act these principles fall away at the end of 2023. These principles affect how EU law principles underpin PSO procurements. This instrument replaces these EU principles with objectives based on those in the Procurement Bill in relation to England and Wales, namely: to deliver value for money; to maximise public benefit, to share information to allow the authority's policies and decisions to be understood; and to act with, and

[6] Pressetext Nachrichtenagentur GmbH v Austria (C-454/06).

be seen to act with, integrity. Authorities must treat suppliers in the same manner unless a difference between suppliers justifies different treatment, and an authority must consider whether barriers to participation by small and medium-sized enterprises (SMEs) can be removed. In relation to Scotland, these principles are replaced with principles mirroring regulations 19(1)-(3) of the Public Contracts (Scotland) Regulations 2015. In carrying out a procurement under these Regulations, a competent authority in Scotland must: treat suppliers equally and without discrimination unless a difference between suppliers justifies different treatment; act in a transparent and proportionate manner; and not design a procurement with the intention of excluding it from the instrument's application or of artificially narrowing competition.

7.19 The approach to have two separate sets of objectives within this instrument has been taken to ensure consistency with the principles that will apply in England and Wales under the Procurement Act, and with existing procurement legislation in Scotland. While this approach means that there is some variation between two similar sets of principles within the instrument and the language used, this is considered appropriate to ensure consistency with the mainstream procurement objectives applicable in the two territories. It also reflects the fact that procurement policy is devolved to Scotland.

7.20 **Overcompensation:** This instrument changes the definition of "reasonable profit" to reflect more closely the nature of passenger services contracts in Great Britain and the rail sector more generally. This is because the way in which reasonable profit was defined under Regulation 1370/2007 did not correspond with the way the market currently operates in Great Britain. The new definition includes a range of factors which can be used to assess what is reasonable, including the level of cost and revenue risk taken. This is useful because capital investment in passenger services contracts is not as prevalent in the market in Great Britain as it is in the EU. In addition, the definition specifies what reasonable profit means where a normal market position cannot be determined – in such a case the level of profit that would be required by a typical, well-run undertaking can be taken into account.

7.21 **Notices:** This instrument includes a new contract awards notice; this is to comply with the TCA and provide transparency. It also streamlines publication requirements, removing the requirement on an authority to publish an annual aggregated report on the PSOs for which it was responsible (Art 7(1) Regulation 1370/2007). This brings PSO procurement into line with mainstream procurement rules, which increases consistency for procuring authorities and the market, as well as reducing administrative burdens.

7.22 **Consequential Amendments:** This instrument makes consequential amendments, including to the Railways Act 1993 and the Subsidy Control Act 2022.

8. European Union Withdrawal, Future Relationship and REUL

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

8.2 This instrument does however relate to the reform of REUL under powers in sections 14(2) and (3) of the Act to revoke and replace REUL and the power in section 20(1)(b) to make consequential amendments to other pieces of legislation, including the Railways Act 1993 and the Subsidy Control Act 2022. It also uses powers in section 20(1)(b) to make saving and transitional provision for procurements commenced before 25 December 2023; these procurements will be run under

Regulation 1370/2007, which is saved for this purpose. Procurements commenced on or after 25 December 2023 will be subject to the provisions in this instrument.

9. Consolidation

9.1 There are no plans to consolidate this legislation.

10. Consultation outcome

10.1 DfT carried out extensive engagement with industry and the Devolved Administrations in relation to Regulation 1370/2007, including as part of the Plan for Rail consultation in early summer 2022, focussing on rail stakeholders. No specific concerns were raised with regard to the proposed approach to Regulation 1370/2007.

10.2 From February to July 2023, DfT conducted follow-up engagement to provide further opportunities for stakeholders to input into the development of changes required to replace Regulation 1370/2007 with a Statutory Instrument for Great Britain. This engagement primarily involved stakeholders from the rail and bus sectors. In this later engagement, DfT chose to undertake direct engagement with rail franchising authorities (TfL, Merseytravel, Nexus[7]), the Devolved Administrations, commercial directors in train operating companies and other rail industry experts including Rail Partners. DfT worked with stakeholders to reach agreement on the changes being made by this instrument. In relation to buses, there was engagement with the Association of Local Bus Managers (ALBUM), the Local Government Association (LGA), the Association of Transport Co-ordinating Officers (ATCO), the Urban Transport Group (UTG), and The Association of Directors of Environment, Economy, Planning & Transport (ADEPT). For light rail, the engagement covered bodies representing operators, local and transport authorities such as the West Midlands Combined Authority, Transport for Greater Manchester (TfGM) and Nottingham City Council.

10.3 These parties were closely engaged during the formulation of policy and were invited to provide responses to a detailed survey on the full range of proposed amendments to be made by the instrument. This wide engagement enabled DfT to work closely with stakeholders affected by the instrument and address issues raised, for example by updating the definition of "rail" and “heritage services” in line with survey feedback, to achieve a broad consensus on the changes. During this period and subsequently, DfT continued to engage with Scottish and Welsh Government officials and incorporated their comments into the instrument where possible. In July 2023, DfT informed stakeholders of changes made to the draft instrument in response to their feedback and subsequent legal checks, and no concerns were raised.

11. Guidance

11.1 DfT is not producing public guidance on this instrument as the instrument is generally maintaining the current framework for the award of PSO contracts and the way in which PSO contracts are procured.

[7] Nexus is the Tyne and Wear Passenger Transport Executive and administers funds on behalf of the Joint Transport Committee of the North East Combined Authority and the North of Tyne Combined Authority.

12. Impact

12.1 The impact on business, charities or voluntary bodies is expected to be neutral overall. Maintaining the powers to make direct awards of PSO contracts will preserve the status quo and enable authorities to continue to operate as they do now.

12.2 The new definitions introduced by this instrument have been tested with rail and bus industry stakeholders and drafted in line with their feedback. DfT does not expect any impacts beyond the benefits of providing greater certainty. There will be positive impacts in terms of clarifying the regime and providing consistency with other domestic legislation for material change, objectives and general principles, but no significant impacts on industry beyond very minor and unquantifiable familiarisation costs.

12.3 The introduction of a reduced limitation period for challenge (of one month) is consistent with mainstream procurement and subsidy legislation. As claims will have to be made without delay, it will bring greater certainty for those who have entered into contracts, reducing the impact on the contractor. The instrument includes a requirement for authorities to publish notices quickly after award, along with a right, in line with the TCA, for claimants to request pre-action information, which will help them decide whether to claim. These two additions will increase transparency compared to Regulation 1370/2007, which did not require the publication of contract award notices.

12.4 Reducing the period for challenge brings increased certainty to the provision of PSO contracts, for the benefit of the public, as well as the contracting authority, who will be impacted less by a claim made quickly after award. Following a successful challenge an authority could be required to reprocure the service or otherwise provide the service itself. During the first few months after award an operator will be preparing for service delivery. A successful claim during this mobilisation phase will be less disruptive than one made later, which could mean the unwinding of an operational service. While claimants will have to consider their position quickly following award, the positive impact of certainty on service providers, authorities and the public reduces the overall impact when considered as a whole. A reduced challenge period will likely provide bidders with increased confidence when bidding for rail contracts, supporting more effective competition. In addition, the reduced risk of disruption to operational services following a successful challenge provides greater certainty to the travelling public.

12.5 DfT expects there to be positive impacts from codifying existing EU case law, as this confirms current practices and legal interpretation, providing certainty. Without codification it is arguable that the number of claims made, particularly on “material change” (in-life change) of contracts, would increase due to the lack of certainty as to how the courts would view such changes.

12.6 The introduction of the remedy of recovery of unlawful subsidy in line with those in the Subsidy Control Act 2022 improves consistency for business and does not impose any direct costs.

12.7 The requirement for contracting authorities to publish contract award notices within two months of entering into a contract improves transparency and does not impact on the current ability of businesses to enter into contracts.

12.8 New standing rules improve clarity as to claimant standing. A person whose interests may be affected by a subsidy decision will be an interested party for these purposes.

This might most typically be a competitor of the beneficiary or a trade association. However, depending on the nature of the subsidy, it could also extend to others, such as a local transport authority or devolved administration. The Secretary of State is expressly included as an interested party. This is in line with the Subsidy Control Act 2022 and does not affect the ability of a person affected by an award to challenge.

12.9 The proposed changes in legislation are neither novel nor contentious. Furthermore, the introduction of the proposed legislation is not expected to have significant distributional impacts between sectors, is not expected to place disproportionate burdens on small businesses, and is not expected to create significant wider social, environmental, financial, or economic impacts.

12.10 There is no, or no significant, impact on the public sector beyond minor reductions in administrative burdens associated with streamlining publication requirements, for example in relation to aggregated annual reports.

12.11 A full Impact Assessment has not been prepared for this instrument because Regulation 1370/2007 relates to procurement and the giving of financial assistance. Therefore, Regulation 1370/2007 changes are exempt and not regulatory provisions as outlined in the requirement for an Impact Assessment as set out in the Small Business, Enterprise and Employment Act 2015. This instrument is also primarily focused on maintaining the status quo in a Great Britain context and aligning Regulation 1370/2007 with the post EU-exit domestic subsidy and procurement regimes in Great Britain.

13. Regulating small business

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

14. Monitoring & review

14.1 As regards monitoring of this legislation, DfT intends to undertake proportionate internal reviews in the respective policy areas specified in this instrument to inform any subsequent amendments to the regimes.

14.2 As this instrument is made under the Act, no review clause is required.

15. Contact

15.1 Henry Robinson at the Department for Transport Telephone: 07971 144048 or email: Henry.Robinson@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Peter Lovitt, Deputy Director for Rail Retained EU Law and Access Simplification at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Huw Merriman MP, Minister of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.