EXPLANATORY MEMORANDUM TO

THE ROAD TRANSPORT (INTERNATIONAL PASSENGER SERVICES) (AMENDMENT) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

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

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

2. Declaration

2.1 Lilian Greenwood MP, Minister for the Future of Roads at the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Hannah Tooze and Katherine Macdivitt, Co-Deputy Directors for Road Freight Strategy at the Department for Transport confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Emma Torstenson, Senior Policy Adviser at the Department for Transport, telephone: 07977 418692 or email: rfs.correspondence@dft.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this instrument is to implement the Protocol on Regular and Special Regular Services ("the RSR Protocol") to the agreement on the international occasional carriage of passengers by coach and bus ("the Interbus Agreement"); and the road passenger transport chapter ("the RPT Chapter") of the UK-EU Trade and Cooperation Agreement ("TCA") between the United Kingdom ("UK") and the European Union ("EU")[1]. The instrument also revokes an item of assimilated EU legislation and retains relevant provisions by updating domestic legislation.

4.2 This instrument amends domestic legislation in order to implement the RSR Protocol and the RPT Chapter. This instrument implements our international obligations by (i) codifying the provisions of the RSR Protocol and the provisions contained in the RPT Chapter and (ii) creating offences for breaches of these provisions by coach and bus operators.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

[1] https://www.gov.uk/government/publications/ukeu-and-eaec-trade-and-cooperation-agreement-ts-no82021

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

5. Policy Context

What is being done and why?

5.1 In order for UK buses and coaches to be able to operate passenger transport services internationally by driving to, from and through other countries' territories, and for international operators to do the same in the UK, there usually need to be agreements in place with those countries to allow specified journeys to take place. Such agreements permit 'market access' for foreign operators and their vehicles.

5.2 This instrument is required as the RSR Protocol came into force on 1 October 2024 for the EU, Moldova and Bosnia and Herzegovina, as ratifying Parties. The RSR Protocol had been drafted and open for ratification by Contracting Parties to the Interbus Agreement for several years. The RPT Chapter currently provides for some of the market access provisions for road passenger transport between the UK and EU that will transfer to the RSR Protocol when the RSR Protocol comes into force in the UK. Under Article 485 of the TCA, these temporary bridging provisions will cease to apply six months after the RSR Protocol enters into force for the EU, that is from 1 April 2025. It is therefore important the UK's domestic law is ready for this change, allowing the UK to also ratify the RSR Protocol, so that UK-EU road passenger services can continue, uninterrupted, on a formal legal basis.

5.3 This instrument will enable the UK to fulfil its international obligations and undertake enforcement action against non-compliant operators that may breach international market access arrangements, but will in effect maintain the status quo. By implementing the RSR Protocol and the provisions of the RPT Chapter this instrument effectively maintains the market access arrangements currently in place between the UK and EU, albeit liberalising these arrangements further by allowing UK bus and coach operators to transit through the EU, subject to authorisation of the territories involved. The UK's international bus and coach services, and the passengers travelling on them, will therefore be largely unaffected by the implementation of this instrument.

5.4 This instrument seeks to maintain the market access status quo for the three types of road passenger transport services set out in paragraph 5.7 that UK passenger transport operators (i.e. coach/bus companies) run internationally, under terms agreed in the TCA. It will implement the international market access arrangements contained within the RSR Protocol once it applies to the UK, at which point some of the provisions of the TCA will no longer apply. The instrument will also update the UK's domestic road passenger transport legislation by removing assimilated EU legislation and keeping the relevant provisions that are still needed by adding these to existing regulations in Great Britain ("GB") and Northern Ireland ("NI"), as the UK has now left the EU.

5.5 International passenger transport is a policy area that is devolved to the NI Assembly. However, given the international obligation within the TCA that the UK must ratify the RSR Protocol, NI Ministers have requested that this instrument includes appropriate provisions for NI. The instrument will therefore update the respective regulations of GB and NI to ensure legislation is in place across the UK, to enable the RSR Protocol treaty ratification procedures in due course.

5.6 It is the international journeys of both UK- and foreign-registered vehicles operating in the UK that are affected by this instrument, specifically those vehicles from the EU, and other Interbus Contracting Parties[2].

5.7 There are three types of commercial bus and coach services. Firstly, 'occasional services' carry groups of passengers on the initiative of the customer or carrier (e.g. holiday tours or private hire trips). These are typically one-off trips, and require a document called a Journey Form to operate. Secondly, 'regular services' pick up and set down passengers at fixed stopping places on specified routes (e.g. scheduled services between Leeds and Amsterdam with stops along the way). Regular services, which generally operate according to a published timetable, are subject to authorisation by the International Road Haulage Permits Office (IRHP) at the Driver and Vehicle Standards Agency (DVSA). Thirdly, 'special regular services' are regular services, but they exclusively carry specified categories of passengers (e.g. pupils to and/or from school), again subject to authorisation via the IRHP. Regular and special regular services are collectively referred to as "RSR services" here.

5.8 During the UK's negotiations with the EU in preparation for EU exit, it was agreed that the Interbus Agreement and RSR Protocol would form the basis of the market access framework for future international passenger transport services by bus and coach, with some additional market access provided by the RPT Chapter. The Interbus Agreement provides a framework for international occasional bus and coach services, whilst the RSR Protocol extends the Interbus Agreement to cover RSR services, as defined in the Interbus Agreement. The RPT Chapter sets out the market access provisions for UK-EU passenger transport and replicates the provisions of the RSR Protocol on a temporary basis, until the RSR Protocol enters into force for the UK, or six months after it enters into force for the EU.

5.9 The Interbus Agreement is a multilateral treaty that has been in place since 2001. The UK was previously included in the Interbus Agreement as the EU was a Contracting Party, but after leaving the EU, the UK joined the Interbus Agreement as an independent Contracting Party on 1 January 2021. This secured continued market access rights for international occasional services, subject to meeting specified operator licensing, technical vehicle standards, and social legislation rules.

5.10 Cabotage – the transport of passengers by an operator based in one Party between two points, both of which are in the territory of another Party – is not permitted under the Interbus Agreement. This means an operator from one Contracting Party may not operate a domestic service in another Contracting Party, and this includes any domestic service that forms part of a longer international service. International operators running services in the UK are currently permitted to undertake cabotage under assimilated EU legislation, but this will be removed under this instrument, thereby providing a more level playing field for UK operators. The RPT Chapter will maintain limited cabotage for NI operators on the island of Ireland only.

5.11 When the RSR Protocol comes into effect for the UK, UK operators will benefit from being able to deliver RSR services which transit through the EU to reach non-EU Interbus Parties signed up to the RSR Protocol, subject to route authorisation by the territories involved in the journey. This instrument is required to enable the UK to undertake enforcement action against non-compliant operators that breach these market access arrangements. Enforcement against non-compliant operators is

[2] Albania, Andorra, Bosnia and Herzegovina, the EU, Moldova, Montenegro, North Macedonia, Serbia, Türkiye, and Ukraine.

important to ensure fair competition for UK operators delivering services both domestically and internationally.

5.12 The UK's international passenger transport services by bus and coach will be largely unaffected by this instrument as the RSR Protocol provisions will simply replace the equivalent temporary provisions in the RPT Chapter, which will expire six months after the RSR Protocol's entry into force on 1 October 2024, on 31 March 2025. However, the RPT Chapter provides further market access arrangements in addition to the occasional and RSR services covered under the Interbus Agreement and temporary TCA RSR services provisions between the UK, EU and Interbus Agreement Contracting Parties. These additional arrangements will remain in place even after the other, temporary provisions within the RPT Chapter fall away on 31 March 2025 and concern:

a) occasional services through the territory of one Party (i.e. either the UK or EU) to a non-Contracting Party to Interbus (e.g. UK operators running occasional services may transit through the EU to reach Switzerland);

b) operators established in the territory of one Party may operate occasional services on the island of Ireland which pick up and set down passengers on the territory of the other Party;

c) similarly, for RSR services running between NI and Ireland, an operator established in one Party is permitted to undertake cabotage, by picking up and setting down passengers in the territory of the other Party; and,

d) RSR services from the EU through the UK to another part of the EU to enable services that use the land bridge between the EU and Ireland (e.g. a service from France, through UK to Ireland).

What was the previous policy, how is this different?

5.13 The previous policy was created when the UK was a member of the EU, when market access for international passenger transport services between the EU and the UK was governed by EU Regulation EC 1073/2009 on common rules for access to the international market for coach and bus services (occasional and RSR). The UK was a member of the Interbus Agreement by virtue of the EU's membership, which provided coach and bus market access between the UK and all Interbus Contracting Parties for international occasional services.

5.14 After leaving the EU, the UK assimilated Regulation EC 1073/2009 and joined the Interbus Agreement as an independent Contracting Party in 2021 to maintain international passenger transport market access for occasional services, including the technical and safety standards required of operators, and enforcement against non-compliant operators. The RPT Chapter provides the temporary provisions for RSR services to continue prior to the RSR Protocol coming into force, as well as other provisions for NI passenger transport services operating on the island of Ireland (such as limited cabotage, and others as specified in paragraph 5.12).

5.15 The instrument maintains these current arrangements by referencing the requirements for RSR and occasional services as per the RPT Chapter and the RSR Protocol, implementing these international obligations into UK domestic law. The instrument will also update the movements permitted by international operators travelling into the UK by removing cabotage rights assimilated under domestic legislation that are not permitted under the Interbus Agreement.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is being made using powers in Section 31(1) of and paragraph 34 of Schedule 5 to the European Union (Future Relationship) Act 2020 ("EU(FR) Act") and Section 56 (charges for services) of the Finance Act 1973.

6.2 This instrument will make amendments to GB domestic legislation, including the Road Transport (International Passenger Services) Regulations 2018; and the Road Traffic (Foreign Vehicles) Act 1972, to implement the provisions of the RSR Protocol and the RPT Chapter in Great Britain.

6.3 This instrument will make amendments to NI domestic legislation, including the Public Service Vehicles (International Passenger Services) Regulations (Northern Ireland) 2019; the Transport (Northern Ireland) Act 1967; and the Road Traffic (Northern Ireland) Order 1981, to implement the provisions of the RSR Protocol and the RPT Chapter in NI.

6.4 This instrument will revoke assimilated Regulation (EC) 1073/2009 and assimilated Commission Regulation (EU) No 361/2014 in respect of the UK, which governed market access for international passenger transport operators while the UK was a member of the EU and during the UK's EU exit transition period. The RSR Protocol and the RPT Chapter extend and apply to the UK (namely, England and Wales, Scotland and Northern Ireland) as does this instrument.

Why was this approach taken to change the law?

6.5 Changing the law is the only possible approach to make the necessary changes. This instrument covers the whole of the UK, including NI, to ensure the UK has supporting domestic legislation in place to meet its international treaty obligations.

7. Consultation

Summary of consultation outcome and methodology

7.1 Consultation did not take place with industry as this instrument will in effect maintain the status quo. The UK's international bus and coach operations will be largely unaffected by this instrument which implements the UK's international agreements and therefore no consultation is required.

7.2 The Scottish Government and the Welsh Government have been made aware of this instrument, as have the Territorial Offices. While this policy area is devolved to the NI Assembly, NI Ministers have requested the territorial application of this instrument be extended to NI to ensure the UK's international treaty obligations can be met.

8. Applicable Guidance

8.1 Guidance regarding authorisation procedures is provided on GOV.UK[3] and will be updated, if needed, once the RSR Protocol is in force for the UK. Changes will clarify the applicable rules for international passenger transport by road, such as any new authorisation procedures for RSR services. However, this will not require drivers or operators to make significant changes to the way in which they currently operate.

[3] https://www.gov.uk/guidance/run-international-bus-or-coach-services-and-tours#get-approval-to-run-a-regular-service-or-a-special-regular-service

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is not expected to have significant impact on the private, public or voluntary sectors. The amendments to the regulations relate to maintenance of existing regulatory standards. A De Minimis Assessment has been carried out instead as the direct impacts on business have been assessed at under £5m per year. The Net Present Value, Equivalent Annual Net Direct Cost to Business and Business Impact Target are expected to be nil.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument will, in effect, maintain the status quo.

9.3 The legislation does impact small or micro businesses.

9.4 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the approach taken is to do nothing. This is because there will be a minimal impact on small businesses because this instrument does not modify the substantive, existing requirements for UK operators.

9.5 There is no, or no significant, impact on the public sector because the instrument will, in effect, maintain the status quo.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that formal monitoring and review is not considered necessary because it does not represent change in Government policy and delivers domestic regulation in support of international treaty obligations.

10.2 As this instrument is made under the relevant European Union Acts (as defined at 13.1), no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument amends the Road Transport (International Passenger Services) Regulations 2018, which were made under (inter alia) section 2(2) of the European Communities Act 1972. The additional procedural requirements in paragraphs 13, 14 and 15 of Schedule 8 to the European Union (Withdrawal) Act 2018 do not apply as the amendments are being made for the purpose of a future relationship agreement (as defined by section 37(1) of the EU(FR) Act).

12. European Convention on Human Rights

12.1 The Minister for the Future of Roads at the Department for Transport, Lilian Greenwood MP, has made the following statement regarding Human Rights:

"In my view the provisions of The Road Transport (International Passenger Services) (Amendment) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is made under section 31 of the EU(FR) Act and therefore relates to the UK's future relationship with the European Union. This instrument involves the implementation of future relationship agreements (as defined by section 37 of the EU(FR) Act), namely the RPT Chapter and the RSR Protocol.