EXPLANATORY MEMORANDUM TO

THE TRAILER REGISTRATION REGULATIONS 2018

2018 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 Her Majesty.

2. Purpose of the instrument

2.1 This instrument establishes a registration scheme for trailers and creates offences relating to that scheme. It provides for registration applications, the issuing of registration documents, the display of registration marks and related matters. It also prohibits the use of trailers in certain categories on journeys to or through foreign countries that have ratified the 1968 Convention on Road Traffic unless registered.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The provisions in these Regulations relating to registration applications/documents and closely related matters will come into force on the day after these Regulations are made. This is necessary to enable hauliers, some of which keep hundreds of trailers, to begin making registration applications as far in advance as possible of the Convention coming into force for the United Kingdom on 28th March 2019.

3.2 Duties and offences relating to the integrity of the scheme, such as the duty on registered keepers to notify the Secretary of State of inaccuracies in the register and the prohibition on displaying a trailer registration mark on a trailer to which it has not been assigned, will come into force 21 days after the day on which these Regulations are made. This will provide those potentially affected by the new duties and prohibitions with a reasonable period for adjustment.

3.3 The prohibition on using unregistered trailers in certain categories on journeys to or through foreign countries that have ratified the Convention, as well as the duties to produce a registration document if required and display a registration mark, will come into force on 28th March 2019. This will provide the keepers and users of trailers with a substantial period for adjustment to the most significant new duties and prohibitions created by this instrument.

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)

3.4 The territorial application of this instrument varies between provisions.

3.5 Schedule 3 contains an amendment to the Road Vehicles Lighting Regulations 1989, which applies in Great Britain only (see section 197 of the Road Traffic Act 1988).

3.6 The enabling powers relied upon for all other provisions cover the entire United Kingdom (see section 45 of the Vehicles (Crime) Act 2001 and section 26 of the Haulage Permits and Trailer Registration Act 2018) and the territorial application of those provisions is not limited either by the relevant Acts or by this instrument.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom, with the exception of paragraph 1 of Schedule 3 (see paragraph 3.5 above).

4.2 The territorial application of this instrument is the United Kingdom, with the same exception.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State has made the following statement regarding Human Rights:

"In my view the provisions of the Trailer Registration Regulations 2018 are compatible with the Convention rights."

6. Legislative Context

6.1 The provisions of Part 2 of the Haulage Permits and Trailer Registration Act 2018 ("the 2018 Act") confer powers on the Secretary of State to make regulations concerning the registration of trailers. This is the first instrument made under those powers and it contains all of the provisions relating to the trailer registration scheme.

6.2 Some aspects of this instrument require changes to existing instruments, such as those governing the lighting of registration plates. Schedule 3 to this instrument contains appropriate amendments.

6.3 The Vehicle Excise and Registration Act 1994, which governs motor vehicle registration, allowed for registration regulations made under it to be extended to a limited category of trailers. This power was never exercised and has been repealed by the 2018 Act.

7. Policy background

What is being done and why?

7.1 This instrument introduces a trailer registration scheme that will enable the users of trailers kept in the United Kingdom, which are currently unregistered, to avoid potential enforcement action in relation to the registration of the trailer while abroad.

7.2 International road traffic is governed by a series of Conventions, including the 1968 Vienna Convention on Road Traffic ("the Convention"). A key aspect of the Convention is the mutual recognition of driving licences, which is also provided for in European Union (EU) law.

7.3 To ensure that UK driving licences will continue to be recognised in every member state following the UK's exit from the EU, the UK ratified the Convention in March 2018. It will come into force for the UK on 28th March 2019 and will apply to traffic between the UK and all other contracting parties to the Convention.

7.4 The Convention allows contracting parties to deny entry to unregistered trailers with a gross weight of more than 750 kilograms. To avoid any disruption to the flow of UK traffic through foreign enforcement action, the Department is introducing a registration scheme ahead of the Convention coming into force that will enable UK trailers to meet its registration standards.

7.5 This instrument makes provision for the operation of a trailer registration scheme, including the criteria and procedure for registration, the particulars to be recorded in the register, the issuing of registration documents, inspections of trailers and the display of registration marks (more commonly known as registration numbers). The policy underpinning the notable provisions is explained in the following paragraphs.

7.6 A trailer will be eligible for registration if (a) it is kept by a UK resident or company or the holder of a valid UK operator's licence and (b) it has a maximum gross weight of more than 750 kilograms. The registration of trailers with a gross weight of 750 kilograms or less is not provided for in this scheme as a contracting party to the Convention cannot deny entry to such a trailer because it is unregistered.

7.7 This instrument prohibits the use of an unregistered trailer on a journey to or through the territory of a foreign country that has ratified the Convention if (a) the trailer is eligible for registration and (b) it is a commercial trailer or it has a gross weight of more than 3,500 kilograms.

7.8 A commercial trailer is one used primarily for the commercial transport of goods or passengers' belongings, whether for hire or reward or any other purpose, or in relation to another paid occupation.

7.9 These categories have been selected because they are the most likely to be subject to scrutiny by foreign enforcement authorities. All previous foreign enforcement activity against unregistered UK trailers (and known to the Department) has been against such trailers. The keepers of other trailers that are eligible for registration, such as caravans and horse trailers with a gross weight of 3,500 kilograms or less, are not required to register such trailers before using them in a Convention territory but may do so if they wish to completely avoid any risk of enforcement action abroad.

7.10 This prohibition is necessary to ensure that trailers which are likely to be scrutinised by foreign enforcement authorities are registered before being taken into Convention territories. If unregistered UK trailers were regularly taken into Convention territories, UK traffic could be targeted for enforcement to ensure compliance with the registration standards in the Convention. This would disrupt the overall flow of all UK trailer traffic (including those properly registered) and must be prevented.

7.11 This instrument will not affect traffic entering Ireland from Great Britain or Northern Ireland as Ireland has not ratified the Convention.

7.12 Applications to register trailers will normally be submitted via a digital service operated by the Driver and Vehicle Licensing Agency (DVLA). This approach has been taken as it is expected that virtually all trailers that will be caught by the prohibition on taking unregistered trailers into Convention territories will be used by commercial operators. The haulage industry has expressed no interest in using any method of communicating with the DVLA other than by digital/electronic means. To accommodate any individual keepers who wish to a take trailer into international traffic, but are unable or unwilling to use a digital service, these Regulations allow for the registration application to be made over the telephone as an alternative.

7.13 Following the registration of a trailer, the Secretary of State will issue a secure paper registration document and an electronic notice of registration to the keeper. This electronic notice, which will specify the keeper's details and the registration mark assigned to the trailer, will enable the keeper to obtain a registration plate from an authorised supplier if presented with a secure document (such as a driving licence) without waiting for the arrival of the secure registration document by post.

7.14 Registration documents will expire 10 years after the date of issue so that potentially outdated documents are eventually removed from circulation. A keeper will be able to apply to the Secretary of State for a renewed document, without charge, prior to the expiry of the existing document. This instrument prohibits the use of expired documents on journeys to or through a Convention territory but does not prohibit using an expired document on a domestic journey. The purpose of this scheme is to enable international journeys and enforcement will be proportionate to that end.

7.15 This proportionate approach is reflected elsewhere. This instrument requires the user of a registered trailer to carry a registration document and display a registration mark, with one exception. If a registered keeper sells or otherwise transfers a registered trailer to another, that person (the new keeper) and users of that trailer will not be required to comply with those duties if the trailer is used in domestic traffic only.

7.16 When disposing of a trailer, the registered keeper will be required to supply the new keeper's name and address. This will be used to inform the new keeper of the registration scheme and potential liability if the trailer is used in a Convention country without a current registered keeper. If the new keeper wishes to take the trailer into a Convention territory (or allow it to be so used), they must first apply to become the registered keeper and the duties referred to above will again apply.

7.17 Inspections of trailers may be carried out, including those trailers in respect of which an application for registration has been made. An inspection of such a trailer may only take place with the keeper's consent as registration is not compulsory and compelling a keeper to submit a trailer to inspection would be disproportionate. But the Secretary of State may refuse to register any trailer that is not made available for inspection. The keeper of such a trailer could then commit an offence if it was subsequently used in a Convention territory without being registered.

7.18 The registration mark of a registered trailer must be displayed on the trailer, both to allow for its identification by enforcement authorities and to comply with the Convention. Schedule 2 to this instrument sets out the specifications for the font used to display the mark and the registration plate that bears the mark. Schedule 3 amends relevant regulations to accommodate the introduction of trailer registration plates.

7.19 The duty under existing regulations to display the registration mark of a motor vehicle on the rear of any trailer that it is drawing is not affected by this instrument, so two registration marks must be displayed on a registered trailer – the mark of the motor vehicle (in the space normally used for registration plates) and the mark of the trailer in a position where it cannot be confused for the motor vehicle's mark. Illumination of the trailer registration plate/mark is not required.

7.20 This instrument makes it an offence to contravene or fail to comply with specified regulations and creates other relevant offences, such as keeping or using an incorrectly registered trailer and obstructing an examiner. A person may also be required to identify a person suspected of committing a specified offence. This power is not unusual in the context of road traffic offences; precedents may be found in the Road Traffic Act 1988 and the Vehicle Excise and Registration Act 1994.

7.21 These offences are necessary to maintain the integrity of the scheme, which will protect the flow of UK traffic abroad by ensuring UK trailers meet the registration standards in the Convention. Suitable defences are also provided.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union for the reasons outlined in paragraphs 7.1-7.4.

9. Consolidation

9.1 No consolidation is planned by the Department.

10. Consultation outcome

10.1 The Department undertook a public consultation from 16th May to 25th June 2018 and the results of that consultation have been published at https://www.gov.uk/government/consultations/haulage-permits-and-trailer-registration. Respondents, which included individuals, industry associations and hauliers, were invited to reply in writing (digitally or on paper).

10.2 In general, respondents supported or accepted the introduction of the trailer registration scheme. Some supported broadening the scope of compulsory registration to include all trailers weighing more than 750 kilograms and others asked that leisure trailers, such as caravans, be excluded from the scheme. The Department is satisfied that the current policy proposal strikes the right balance between facilitating international journeys and minimising the burden on trailer keepers/users.

10.3 Specific concerns were also expressed relating to some of the practicalities – e.g. fitting a second registration plate to a trailer, carrying registration documents and registering fleets of trailers before March 2019. The Department will continue engaging with the industry on such issues and monitor the scheme once in operation.

10.4 The devolved administrations were also invited to respond. The primary focus of the responses was that the requirements placed on operators should be made clear at the earliest opportunity, that the registration system should be a streamlined process and that additional engagement sessions be offered for interested stakeholders in the devolved administrations.

10.5 A separate, focused consultation was also undertaken with representative organisations on the amendment to the Road Vehicles Lighting Regulations 1989 in Schedule 3. The responses supported the amendment.

11. Guidance

11.1 The Department and DVLA are preparing guidance on the registration scheme and using the registration service, which is in the final stages of development. The guidance will be available on or before 1st December 2018 at http://www.gov.uk/dvla or by writing to the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that virtually all commercial trailers, and the largest non-commercial trailers, will need to be registered before being used on a journey to or through a foreign country that has ratified the Convention. This will incur the payment of a registration fee to the DVLA and

payment to a private registration plate supplier for a registration plate. There will be additional costs for the replacement of registration documents.

12.2 There is no, or no significant, impact on the public sector. The trailer registration scheme will be operated on a cost recovery basis by the DVLA.

12.3 A full Impact Assessment is 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.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses. Requiring all commercial trailers that weigh more than 750 kilograms to be registered before entering a country that has ratified the Convention is necessary to prevent targeted enforcement action against UK trailers. Exempting small businesses from any of the duties or prohibitions in this instrument would undermine this approach.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that it will be subject to a formal review five years after it comes into force and the scheme will be monitored by the Department in consultation with the haulage industry and representative groups of trailer users, particularly in the initial period following the scheme coming into operation. Amendments to this instrument will be made when required.

14.2 A statutory review clause is included in these Regulations.

15. Contact

15.1 Adam Duggan at the Department for Transport Telephone: 07976 433551 or email: Adam.Duggan@dft.gov.uk can be contacted with any queries regarding this instrument.

15.2 Paul O'Sullivan, Deputy Director for Roads EU Exit, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jesse Norman, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.