EXPLANATORY MEMORANDUM TO

THE EUROPEAN COMMUNITIES (DESIGNATION) ORDER 2016

2016 No. 161

1. Introduction

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

2. Purpose of the instrument

2.1 Section 2(2) of the European Communities Act 1972 ("ECA 1972") includes a power for "designated" Ministers and departments to make subordinate legislation. The instrument designates the Welsh Minsters in relation to the design and construction of buildings and in relation to services, fittings and equipment provided in or in connection with those buildings.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 2(2) ECA 1972 confers a power which may be exercised by a designated Minister or government department. A designated Minister or government department can make secondary legislation to implement European Union obligations, or to deal with matters arising out of or related to those European Union obligations. By virtue of section 59(1) of the Government of Wales Act 2006, the power to designate a Minister of the Crown or government department under section 2(2) ECA 1972 may be exercised to designate the Welsh Ministers.

4.2 The Welsh Ministers are not currently designated in relation to the design and construction of buildings, and in relation to services, fittings and equipment provided in or in connection with those buildings. The designation made by Article 2 of this Order is relevant to the transposition of European Union obligations, imposed by Article 8 of Directive 2014/61/EU of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks ("the Directive"), in relation to facilitating the connection of all new buildings and those subject to major renovation to high-speed electronic communications networks.

4.3 The Directive has not yet been transposed.

5. Extent and Territorial Application

5.1 By virtue of Article 3 of the Order this instrument designates the Welsh Ministers only to make subordinate legislation that applies in relation to Wales.

5.2 This territorial restriction applies except where the subordinate legislation is made jointly with a Minister of the Crown or government department.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Acknowledging the importance of high-speed broadband roll-out, Member States have endorsed the ambitious broadband targets set out in the Communication from the Commission entitled 'The Digital Agenda for Europe – Driving European growth digitally' ("the Digital Agenda"), namely to bring basic broadband to all Europeans by 2013, and to ensure that, by 2020, all Europeans have access to much higher internet speeds of above 30 Mbps and 50% or more of Union households subscribe to internet connections above 100 Mbps.

7.2 Forming part of the Digital Agenda, the Directive aims at laying down some minimum rights and obligations applicable across the Union in order to facilitate the provision of high-speed electronic communications networks.

7.3 The achievement of the Digital Agenda requires that the infrastructure be brought close to the end-user's location. Article 8 of the Directive provides that to facilitate the connection of end-users with high-speed networks, all new buildings and those subject to major renovation should be equipped with high-speed ready in-building physical infrastructure up to the point where the end-user is provided with access to a public communications network. It also provides that multi-dwelling buildings should be equipped with an access point to the high-speed ready infrastructure.

8. Consultation outcome

8.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation was carried out.

9. Guidance

9.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The Order does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The designation in this and similar orders is intended to identify clearly the subject areas in relation to which a Minister or government department is designated.

12.2 The designation contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

13. Contact

13.1 Les Saunders at the Cabinet Office European and Global Issues Secretariat (Telephone: 020 7276 0190 or email: Les.Saunders@cabinetoffice.gov.uk) can answer any queries regarding the instrument.