EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (CONTROL OF ENTRY THROUGH REPUBLIC OF IRELAND) (AMENDMENT) ORDER 2014

2014 No. 2475

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

2. Purpose of the instrument

2.1 To recognise specific types of valid Republic of Ireland visas, and subsequent endorsements conferring permission to land in the Republic, as enabling an Indian or Chinese citizen to travel on to the UK and to remain in the UK for the same duration as the Irish permission to land. This amendment provides the legal basis for the British-Irish Visa Scheme, a joint UK-Ireland initiative aimed at promoting tourism and growth in both states. Obsolete provisions, as a result of developments since the Order was originally drafted, are removed.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The instrument is being made to provide the legal basis for the first phase of a new UK-Ireland visa scheme: the British-Irish Visa Scheme. In December 2011 a joint ministerial statement which outlined the joint work to be undertaken on measures to secure the external Common Travel Area (CTA) border was signed by the Immigration Minister and the Irish Justice Minister. Alignment of respective visa policies and processes was included in the statement. A reciprocal visa arrangement is included in the package of proposals announced by the Government and the Northern Ireland Executive in 2013: Building a Prosperous and United Community.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 The United Kingdom and the Republic of Ireland are part of the Common Travel Area (CTA). This arrangement allows the nationals of these states and others to move freely without immigration controls, subject to exceptions. Visa nationals need to ensure they continue to comply with the rules of each state when travelling between them.

7.2 There is a high level of collaboration between CTA members on work to strengthen the CTA and move to better, common standards for border security and visa issuance, promoting legitimate travel while denying entry to those who intend to abuse the immigration system or cause harm. The UK-Ireland joint programme of work includes investment in border procedures, increased data sharing to inform immigration and border security decisions, unified passenger data systems, including the collection and processing of Advance Passenger Information (API), and harmonised visa policy and processes.

7.3 The British-Irish Visa Scheme will allow holders of specified Irish biometric visitor visas entry to the UK where they are travelling from the Republic of Ireland on a local journey and in possession of a valid visa and endorsement of leave to land in the Republic. Individuals will be able to remain in the UK until the expiry date of the permission to land in Ireland but are not able to take any occupation for reward or employment. The Scheme supports both the UK's growth agenda - in attracting visitors to combine a visit to Ireland with a visit to the UK - and the security agenda - by working with Ireland to align visa policy and processes greater certainty can be had on who is entering the CTA.

7.4 In support of the British-Irish Visa Scheme biometrics are being introduced as part of the Irish visa regime. Biometrics will be shared with the UK, enabling the identification of those applicants for Irish visas with a negative UK immigration history.

7.5 The Scheme is politically important. The intended impact on growth and tourism is of particular interest to the Northern Ireland Executive. Under an Irish-run visa waiver scheme which saw the Republic of Ireland recognise UK visitor visas issued to 18 nationalities as enabling entry to Ireland, an almost 40% increase in visitors from these nationalities was recorded as a result.

7.6 The British-Irish Visa Scheme will be introduced on a phased basis. The rollout of biometrics as part of the Irish visa regime will be gradual. Therefore it is not possible to introduce the Scheme globally from the outset. Chinese and Indian citizens, applying for visas in China and India respectively, will be included in the first phase. A phased approach also allows the infrastructure, including the processes and IT required, to be proved alongside managing the potential volumes. Subject to a joint evaluation with the Republic of Ireland the Scheme will be expanded to include further nationalities in 2015.

7.7 The amendments to the Immigration (Control of Entry through Republic of Ireland) Order 1972 also remove obsolete provisions. Article 3(6) and (132) ensures that

an automatic permission to enter and stay in the United Kingdom is not conferred on EEA nationals or those exercising EU rights. Article 3(4)(c) ensures that the powers in relation to illegal entrants contained in the 1971 Immigration Act, and other controls, will apply to those subject to EEA exclusion orders. The previous provisions in the 1972 Order concerning UK visas endorsed with the words "short visa" are removed as such visas are no longer issued.

- Consolidation

7.8 As the amendments to the 1972 Order are relatively limited, the Department has on balance decided not to consolidate on this occasion.

8. Consultation outcome

8.1 The British-Irish Visa Scheme is a joint initiative with the Republic of Ireland. During its development the Scheme has been discussed with the Northern Ireland Executive and some trade and tourism bodies, with support for the proposal.

9. Guidance

9.1 Clear communications are key to ensuring the British-Irish Visa Scheme is understood by customers and stakeholders. Information about the scheme is available on gov.uk. Guidance to staff and carriers will be amended prior to the launch of the Scheme. Regional communications leads are sighted on the changes and local decisions will be made on how to communicate the changes in each of the markets affected.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that visa nationals visiting the Republic of Ireland on an Irish Business visitor visa will be able to travel onto the UK, for example to attend a meeting, without applying for a separate UK visa. There are no additional requirements on business, charities or voluntary bodies. The Scheme is intended to facilitate legitimate travel.

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 legislation does not apply to small business.

12. Monitoring & review

12.1 The Scheme is intended to promote tourism and growth between the United Kingdom and the Republic of Ireland and to strengthen the external border of the CTA. Further rollout of the Scheme to nationalities other than from China and India will be

subject to an internal joint UK-Ireland evaluation of the Scheme in these first locations. Close consideration will be given to any increase in visitors to the United Kingdom from these nationalities as a result of the Scheme, the quality of immigration decisions and any impact on the security of the border.

13. Contact

Greg Easter at the Home Office: Tel: 0207 035 6772 or email: Greg.Easter2@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.