EXPLANATORY MEMORANDUM TO

THE QUALITY PARTNERSHIP SCHEMES (ENGLAND) (AMENDMENT) REGULATIONS 2009

2009 No. 3248

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 The instrument empowers traffic commissioners, when exercising certain functions relating to bus quality partnership schemes, to seek assistance from members of a new panel of persons being appointed by the Secretary of State in connection with bus quality contracts schemes.

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

3.1 None.

4. Legislative Context

4.1 Part 2 of the Transport Act 2000 empowers local authorities to make quality partnership schemes (QPSs) and quality contracts schemes (QCSs). Such schemes are aimed at improving the standard of local bus services. The Local Transport Act 2008 ("the 2008 Act") amended the relevant provisions in the 2000 Act with a view to encouraging more local authorities to implement such schemes.

4.2 The 2008 Act amendments relating to QPSs, together with two related sets of Regulations, came into force on 6 April 2009. This instrument amends one of those sets of Regulations to include a reference to a new panel of persons to be appointed by virtue of QCS-related provisions in the 2008 Act, which come into force on the same day as this instrument.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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 Following amendments made by the 2008 Act, QPSs may include requirements about frequencies, timings or maximum fares. However, they may do so only where there are no "admissible objections" from "relevant [bus] operators" (these two terms are defined in Regulations).

7.2 In the first instance, it is for the local transport authority proposing to make the QPS to determine whether or not an objection is "admissible" or an objector is a "relevant operator". However, in the event of a dispute, the objector may refer the matter to a traffic commissioner for an impartial determination.

7.3 Where such a matter is referred, the traffic commissioner may need to seek specialist advice from a third party. As originally made, the Quality Partnership Schemes (England) Regulations 2009 empowered traffic commissioners to be assisted by members of a panel of financial assessors appointed by the Secretary of State for certain purposes related to Public Service Vehicle operator licensing.

7.4 QCS-related amendments in the 2008 Act include provision for the Secretary of State to appoint a new panel of persons from whom members of "QCS boards" will be selected. These QCS boards will play a role in scrutinising local authority proposals for QCSs, and the new panel is expected to include members with expertise in transport planning and transport economics.

7.5 Such expertise may also be valuable to the traffic commissioners in determining questions relating to "admissible objections". Accordingly, this instrument empowers the traffic commissioners to be assisted by members of the QCS board panel when determining questions relating to "admissible objections". The intention is to help ensure that traffic commissioners are able to obtain assistance from a range of suitably-qualified individuals.

7.6 The 2008 Act provisions relating to QCSs were not in force when the Quality Partnership Schemes (England) Regulations 2009 were made, and accordingly it was not possible for those Regulations to refer to the QCS board panel at that time.

- ***Consolidation***

7.2 Consolidation is not considered appropriate because this instrument substitutes a single paragraph in a statutory instrument that has not otherwise been amended.

8. Consultation outcome

8.1 The consultation draft of the Quality Partnership Schemes (England) Regulations 2009 included provision empowering traffic commissioners to be assisted by members of the QCS board panel. Details of that consultation are available at http://www.dft.gov.uk/consultations/archive/2008/buspartnership/.

8.2 This provision attracted no specific comment, though some general comments were made about the need for traffic commissioners to have access to appropriate specialist support. However, the provision could not be included in those Regulations when they were originally made, because the 2008 Act provisions about QCS boards were not at that time in force.

8.3 Given that the proposal attracted no specific comment, further public consultation was considered unnecessary and would have imposed an unnecessary burden on those consulted.

8.4 However, the Administrative Justice and Tribunals Council was consulted in accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007. The Council offered no comment.

9. Guidance

9.1 Extensive guidance about QPSs is available from www.dft.gov.uk/localtransportact. It is not considered necessary to update that guidance in light of this instrument.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is that the traffic commissioners will have access to assistance from a wider range of suitably-experienced individuals when making determinations relating to QPSs.

10.3 Accordingly, an Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to businesses of any size.

12. Monitoring & review

12.1 The impact of the 2008 Act provisions about QPSs, including the related regulations, is expected to be the subject of post-legislative scrutiny in due course.

13. Contact

Matt Tyler at the Department for Transport (tel: 020 7944 2284 or email: Matt.Tyler@dft.gsi.gov.uk) can answer any queries regarding the instrument.