EXPLANATORY MEMORANDUM TO

Rail Passenger Rights' and Obligations (Exemptions) Regulations (Northern Ireland) 2011

SR 2011 No. 134

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Regional Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Regulations exempt domestic rail passenger services in Northern Ireland from provisions of Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23rd October 2007 on rail passengers' rights and obligations ("the Community Regulation") (OJ No. L315,3.12.2007, p.14).

3. Background

3.1. 2. The Regulation is one of a series of measures that form part of the 3rd Railway package. It is a mandatory instrument aimed at enhancing the rights of passengers on international and domestic rail services. The policy is aimed at strengthening the rights of rail passengers particularly in the areas of information and ticketing provision, compensation and assistance, rights for persons of reduced mobility and enforcement of those rights. EC Regulations are directly applicable under EC law, which means that they automatically become part of National law of all European Union Member States. The Regulation took effect here on 4th December 2009.

3.2.

3.3. 3. One of the key agreements reached between the Council and the European Parliament during negotiations of the Regulation was to extend the Regulation to cover domestic services but to allow Member States to grant certain derogations. The relevant derogation here is in Article 2(4). It allows Member States to grant a derogation for all domestic services from the non-core provisions of the Regulation for an initial period of five years, followed by a maximum of two further periods of five years each (making a maximum of 15 years).

4. Consultation

4.1. The Department issued a public consultation and no substantive comments were received. In addition consultees' attention was drawn to the issues of human rights, equality and regulatory impact and their views sought if any such matters arose. No comments were received in relation to these areas as set out below. 4.Along with our colleagues in the South we believe that the burdens of complying with the EC Regulation fully should only be

imposed regarding domestic services after consideration of the evidence of the case for complying with the areas covered by the exemptions. Consequently we consider that it is preferable to grant exemptions to the maximum possible extent pending further consideration and discussions with NIR. This has been done in the South by making a Statutory Instrument which exempts domestic services from the non-core provisions of the Regulation from its operational date of 4th December 2009. Similar provisions have also been made in GB and we consider that we should do the same here.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposal as part of the public consultation exercise on these proposals. The Department does not consider there is a need for an equality impact assessment.

6. Regulatory Impact

6.1. The Department does not consider that there is a need for a regulatory impact assessment.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has carried out a Human Rights Act screening analysis and no human rights issues have been identified.

9. EU Implications

9.1. None.

10. Parity or Replicatory Measure

10.1. None.

11. Additional Information

11.1. Not applicable.