EXPLANATORY MEMORANDUM TO THE

RAILWAYS (RAIL PASSENGERS' COUNCIL AND RAIL PASSENGERS' COMMITTEES) (EXEMPTIONS) (AMENDMENT) ORDER 2005

2005 No. 1737

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. **Description**

The purpose of this instrument is to amend the Railways (Rail Passengers' Council and Rail Passengers' Committees) (Exemptions) Order 2003 ("the 2003 Order") (SI 2003/1695) to remove references to Rail Passengers' Committees with effect from 24th July 2005. On that date, Rail Passengers' Committees are to be abolished when section 21(1) of the Railways Act 2005 ("the 2005 Act") is brought into force.

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

None.

4. **Legislative Background**

Section 77(9C) of the Railways Act 1993 ("the 1993 Act") was the authority for the Secretary of State to make the 2003 Order in so far as it related to Rail Passengers' Committees.

Under section 14 of the Interpretation Act 1978, the conferral of a power to make orders implies, unless the contrary intention appears, a power, exercisable in the same manner and subject to the same conditions or limitations, to revoke, amend or re-enact any instrument made under the power. There is nothing in the 1993 Act which suggests such a contrary intention in relation to the section 77(9C) power.

Section 21(1) of the 2005 Act provides for the abolition of the Rail Passengers' Committees established under section 2(2) of the 1993 Act. Schedule 13 to the 2005 Act provides for the repeal of section 77 of the 1993 Act (to which the exemptions for the Rail Passengers' Committees in the 2003 Order relate). Section 21(1) and the entry in Schedule 13 to the 2005 Act relating to the repeal of section 77 of the 1993 Act are being brought into force on 24th July 2005.

Section 19(6) provides for the Rail Passengers' Council established by section 3(2) of the 1993 Act to cease to exist. Section 19(1) provides for the establishment of a new body corporate, to be known as the Rail Passengers' Council. Section 19(7) provides that references in enactments, instruments and other documents to the Rail Passengers' Council established by section 3(2) of the 1993 Act shall have effect as references to the Council established by section 19(1) of the 2005 Act. Section 19 of the 2005 Act is being brought into force on 24th July 2005. The references to the Rail Passengers' Council in the 2003 Order and the 1993 Act shall accordingly have

effect after that date as references to the new Council established by section 19(1) of the 2005 Act, by virtue of section 19(7).

5. Extent

This Order applies to Great Britain.

6. European Convention on Human Rights

Not applicable.

7. Policy background

The 2003 Order modified the duties of Rail Passengers' Committees under section 77 of the 1993 Act, so as to limit their duties to represent passengers to matters relating to the main national rail network, rather than heritage or charter services. Rail Passengers' Committees and their section 77 duties are to be abolished on 24th July 2005. It is accordingly considered appropriate to amend the 2003 Order to reflect these changes.

The provisions of the 2003 Order which relate to the Rail Passengers' Council are to remain in force. By virtue of section 19(7) of the 2005 Act, which is to be brought into force on 24th July 2005, the references to the Rail Passengers' Council in the 2003 Order will have effect as a reference to the Rail Passengers' Council established by section 19(1) of that Act from that date.

In accordance with section 77(9C) of the 1993 Act, the Secretary of State has consulted with the Rail Passengers' Council before making this Order. The Rail Passengers' Council had no comments to make on the Order.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

There is no adverse impact on the public sector under this instrument.

9. Contact

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