EXPLANATORY MEMORANDUM TO

THE SECRETARIES OF STATE FOR BUSINESS, INNOVATION, SCIENCE AND TRADE AND FOR DIGITAL, CULTURE, MEDIA AND SPORT AND THE CHANCELLOR OF THE DUCHY OF LANCASTER ORDER 2026

2026 No. 1147

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Digital, Culture, Media and Sport on behalf of that Department, the Department for Business, Innovation, Science and Trade, and the Cabinet Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Twycross, Parliamentary Under-Secretary of State at the Department for Digital, Culture, Media and Sport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Matt Reader, Deputy Director for the Machinery of Government changes at the Department for Digital, Culture, Media and Sport, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jamie Morley at the Department for Digital, Culture, Media and Sport can be contacted at parliamentaryteam@dcms.gov.uk with any queries regarding the instrument. Alternatively, the department can be contacted by telephone on 020 7211 6000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Order makes provision in connection with the establishment of the offices of the Secretary of State for Business, Innovation, Science and Trade and the Secretary of State for Digital, Culture, Media and Sport. It provides for the incorporation of the Secretary of State for Business, Innovation, Science and Trade as a corporation sole and makes provision related to the transfer of the following functions. (The Secretary of State for Digital, Culture, Media and Sport was incorporated as a corporation sole by S.I. 2017/979.)

4.2 The Secretary of State for Science, Innovation and Technology: functions relating to the digital economy, digital infrastructure (including telecoms and broadband), cyber security and digital government transformation transfer to the Secretary of State for Digital, Culture, Media and Sport, and functions relating to core science and research, science policy and emerging technologies transfer to the Secretary of State for Business, Innovation, Science and Trade.

4.3 Certain functions formerly exercised by the Secretary of State for Science, Innovation and Technology in relation to artificial intelligence (AI), including responsibility for AI strategy, public sector AI adoption and the AI Security Institute, transfer to the Chancellor of the Duchy of Lancaster. AI responsibilities are distributed between the

Department for Business, Innovation, Science and Trade, the Department for Digital, Culture, Media and Sport and the Cabinet Office. The Order gives legal effect to that allocation where statutory functions or associated legal arrangements require transfer.

4.4 The functions of the Secretary of State for Business and Trade transfer to the Secretary of State for Business, Innovation, Science and Trade.

4.5 The Order also makes provision in connection with the transfer from the Cabinet Office of national security and investment functions associated with the National Security and Investment Act 2021, including the Investment Security Unit, to the Secretary of State for Business, Innovation, Science and Trade.

4.6 The remaining Secretary of State for Culture, Media and Sport functions transfer to the Secretary of State for Digital, Culture, Media and Sport.

Where does the legislation extend to, and apply?

4.7 The extent of the Order (that is, the jurisdictions of which the Order forms part of the law) is the United Kingdom, except that the extent of any amendment made by the Order is the same as the provision amended.

4.8 The territorial application of the Order (that is, where it produces a practical effect) is all of the United Kingdom, except where functions transferred by the Order and consequential amendments it makes have a more limited application.

5. Policy context

What is being done and why?

5.1 On 21 July 2026, the Prime Minister made a number of changes to the Machinery of Government to rewire the state to deliver a stronger, more strategic centre which acts as the engine room for driving economic growth across the whole country. These changes included transforming how the Government is structured to approach science, innovation, and technology. This reflects that the UK stands at a critical juncture where unprecedented global changes demand that we secure our position as a world leader in AI, science and technology. In this context, we cannot see science and technology as an isolated issue, limited to one department. Instead, it is a major priority that cuts across the whole of government and is vital to the UK's future economic prosperity.

5.2 To deliver this, the functions of the former Department for Science, Innovation and Technology were redistributed. This included the establishment of the Department for Business, Innovation, Science and Trade and the Department for Digital, Culture, Media and Sport. The former brings together business and trade functions with core science and research, science policy and emerging technology functions. The latter brings together culture and media functions with digital economy, digital infrastructure, digital government transformation, remaining digital identity policy, information resilience, online harms, cyber security and the Office for the Impact Economy. This Order makes provision to give legal effect to those changes in ministerial responsibilities.

5.3 Recognising that the transformative scale of AI advances requires a strategic, whole-of-government approach from the centre, the Prime Minister established a new AI Taskforce within the Office for the Prime Minister and Cabinet. This is supported by a Prime Ministerial adviser on AI. This central team will drive the Government's overall strategy on AI to unlock the opportunities it holds for growth, prosperity and public sector transformation. The Cabinet Office will also take the lead on AI

adoption across the Civil Service, reflecting the urgency of delivering that transformation for the benefit of people across the country. To deliver this step change, responsibility for AI strategy, public sector AI adoption and the AI Security Institute transferred to the Cabinet Office.

5.4 Following the Machinery of Government changes, the Department for Business, Innovation, Science and Trade will lead on AI policy (including growth, infrastructure and innovation), while the Department for Digital, Culture, Media and Sport will lead on AI and copyright issues and societal harms caused by AI, as well as managing the intersections with cyber security. Other AI responsibilities will be allocated between departments to reflect this.

5.5 As part of this overall restructuring, several functions were transferred out of the Cabinet Office to slim down the centre of government and align them with departments suited to their purpose. This included the Investment Security Unit, which was transferred to the Department for Business, Innovation, Science and Trade.

6. Legislative and legal context

How has the law changed?

6.1 The Order is a Transfer of Functions Order made under the Ministers of the Crown Act 1975. It amends the legal allocation of the functions specified in the Order and makes consequential and supplementary provision required by those transfers.

6.2 Article 3 of the Order incorporates the office of the Secretary of State for Business, Innovation, Science and Trade as a corporation sole, and makes provision about the authentication of the corporate seal and the execution and certification of documents.

6.3 Article 4 transfers a number of statutory functions to the Secretary of State for Business, Innovation, Science and Trade which, under current legislation, fall to be exercised by the Secretary of State for Business and Trade or the Secretary of State for Science, Innovation and Technology.

6.4 Article 6 transfers a number of statutory functions to the Secretary of State for Digital, Culture, Media and Sport which, under current legislation, fall to be exercised by the Secretary of State for Culture, Media and Sport or the Secretary of State for Science, Innovation and Technology.

6.5 Article 8 transfers to the Chancellor of the Duchy of Lancaster certain functions of the Secretary of State for Science, Innovation and Technology under the Digital Economy Act 2017 (c. 30), so far as those functions relate to certain CO AI functions as defined in article 2(1) of the Order.

6.6 Articles 5, 7 and 9 deal with the transfer of certain property, rights and liabilities to the Secretary of State for Business, Innovation, Science and Trade, the Secretary of State for Digital, Culture, Media and Sport, and the Chancellor of the Duchy of Lancaster respectively, and also make supplementary provision to preserve continuity following the transfers by addressing the continuation of actions taken, documents and forms, references in enactments and instruments, and the transfer of relevant property, rights and liabilities, including contractual and other legal arrangements connected with the transferred functions.

6.7 The Schedule makes consequential amendments across primary and secondary legislation and retained EU law to replace references to former departments and officeholders, remove references that are no longer required, and ensure that named statutory functions are exercisable by the appropriate successor.

6.8 In particular, the Order makes consequential amendments to the Digital Economy Act 2017 and associated secondary legislation so that statutory information-sharing powers continue to operate in accordance with the redistribution of functions between the new Secretaries of State and the Chancellor of the Duchy of Lancaster.

Why was this approach taken to change the law?

6.9 Legislation is required to incorporate the office of the Secretary of State for Business, Innovation, Science and Trade as a corporation sole. The Order also reallocates the responsibilities described in section 5 above so the functions specified are transferred to the appropriate Minister.

6.10 In addition, legislation is required because a number of functions are conferred expressly on named Secretaries of State and cannot be fully reallocated through administrative action alone. The Order transfers those functions to the appropriate successor office and provides for continuity in their exercise.

7. Consultation

7.1 There is no requirement to consult on this Order, which gives effect to a Machinery of Government change already announced by the Prime Minister, and there has not been any formal consultation on the Order itself.

8. Applicable guidance

8.1 No guidance is being produced in connection with this Order as guidance is not required.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on business, charities, voluntary bodies or the public sector foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the Order gives effect to a Machinery of Government change already announced by the Prime Minister.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this Order gives effect to a Machinery of Government change already announced by the Prime Minister.

9.5 The continuity provisions are intended to ensure that existing contracts, grants, memoranda of understanding, framework documents, shareholdings and other arrangements associated with transferred functions continue to operate following the Machinery of Government changes, subject to the precise provisions of the Order.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 No formal monitoring or review of the Order is considered necessary because it gives effect to a Machinery of Government change already announced by the Prime Minister.

10.2 The Order does not include a statutory review clause because it does not make regulatory provision.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Baroness Twycross, Parliamentary Under-Secretary of State at the Department for Digital, Culture, Media and Sport, has made the following statement regarding Human Rights:
"In my view, the provisions of the Secretaries of State for Business, Innovation, Science and Trade and for Digital, Culture, Media and Sport and the Chancellor of the Duchy of Lancaster Order 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").