EXPLANATORY MEMORANDUM TO

THE TRANSFER OF FUNCTIONS (DIGITAL GOVERNMENT) ORDER 2025

2025 No. 557

1. Introduction

1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 The Rt Hon Pat McFadden, Chancellor for the Duchy of Lancaster, confirms that this Explanatory Memorandum meets the required standard.

2.2 Jenny Brooker, Chief Data Architect, Central Digital and Data Office at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rob Malcomson, Deputy Director of Counter Fraud Data, Analytics & AI, at the Cabinet Office Telephone: 07779 334 961 or email: PSFA@cabinetoffice.gov.uk or dea-data-sharing@digital.cabinet-office.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does this legislation do?

4.1 The Order makes provision in connection with the transfer of functions between the Minister for the Cabinet Office and the Secretary of State for Science, Innovation and Technology.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 On 24 July 2024, it was announced that Ministerial responsibility for the Government Digital Service, the Central Digital and Data Office, and the Incubator for Artificial Intelligence from the Minister for the Cabinet Office to the Secretary of State for Science, Innovation and Technology.

5.2 This Order therefore seeks to transfer or make concurrent the functions that are not already available to the Secretary of State so these may be exercised by the Secretary of State for Science, Innovation and Technology.

5.3 The changes affect the Public Sector Bodies (Websites and Mobile Applications) (No.2) Accessibility Regulations 2018 to transfer the powers and duties from the Minister for the Cabinet Office to the Secretary of State.

5.4 The changes affect Part 5 of the Digital Economy Act 2017. The Department for Science, Innovation and Technology will lead the policy within Chapter 1 (Public Service Delivery) (or the relevant devolved Ministers where appropriate). The Cabinet Office will continue to lead on the policy within Chapters 3 (Debt Owed to the Public Sector) and 4 (Fraud Against the Public Sector) of Part 5. The powers and duties within these chapters will therefore be capable of exercise by the Secretary of State or Minister for the Cabinet Office (or the relevant devolved Ministers where appropriate).

What was the previous policy, how is this different?

5.5 Under the Order, the digital functions of the Minister for the Cabinet Office are transferred to, or exercised concurrently with, the Secretary of State.

5.6 The Order also provides that the property, rights and liabilities of the Minister for the Cabinet Office, in connection with the digital functions, to the Secretary of State for Science, Innovation and Technology.

6. Legislative and Legal Context

How has the law changed?

6.1 The Order puts into effect the machinery of government change which transfers functions and associated property, rights and liabilities from the Minister for the Cabinet Office to the Secretary of State for Science, Innovation and Technology. Article 9 of this Order makes a number of consequential amendments to provisions in primary and secondary legislation as a result of the transfer.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no requirement to consult on this Order which gives effect to a machinery of government change already announced, 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 no impact on business is 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 instrument makes changes as a consequence of a machinery of government change to ensure the law is up to date and works effectively and does not impact on these areas.

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 the instrument makes changes as a consequence of a machinery of government change to ensure the law is up to date and works effectively and does not impact on these areas.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 No formal monitoring or review of this legislation is considered necessary.

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 The Chancellor of the Duchy of Lancaster has made the following statement regarding Human Rights:

"In my view the provisions of the Transfer of Functions (Digital Government) Order 2025 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").