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 of the Duchy of Lancaster, at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Joanna Davinson, Interim Government Chief Digital Officer, at the Department for Science, Innovation and Technology confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rob Malcomson at the Cabinet Office Telephone: 07779334961 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 the 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 The machinery of government change is being made pursuant to the Prime Minister's Written Ministerial Statement of 24 July 2024 (HCWS19): "the Government Digital Service, the Central Digital and Data Office and the Incubator for Artificial Intelligence will move from the Cabinet Office to the Department for Science, Innovation and Technology. This change will embed the delivery of digital services and levers to drive public and private sector innovation within a single Department. Working closely with the Cabinet Office and HM Treasury, the Department for Science, Innovation and Technology will be the digital centre of government".

5.2 To give effect to the statement legislatively, this Order 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 (Website and Mobile Applications) (No. 2) Accessibility Regulations 2018 Regulation 10 of the Public Sector Bodies (Website and Mobile Applications) (No. 2) Accessibility Regulations 2018 requires the Minister for the Cabinet Office to monitor the compliance of public sector websites and mobile applications with the accessibility requirements that are imposed by those regulations, ensuring that they conform to an international digital accessibility standard. All public sector websites and mobile applications must meet this standard so that citizens, particularly those with a disability, have access to public services. The Minister for the Cabinet Office can determine compliance with those standards and publish a list of those determinations. The Minister for the Cabinet Office is also required to publish a monitoring methodology and a report on the outcome of the monitoring every three years.

5.4 The powers and duties outlined in paragraph 5.3 will transfer from the Minister for the Cabinet Office to the Secretary of State.

5.5 The changes affect Part 5 of the Digital Economy Act 2017. The changes enable to powers and duties in Part 5 to be exercised concurrently by the Minister for the Cabinet Office and the Secretary of State. The Department for Science, Innovation and Technology will lead the policy in Chapter 1 (Public Service Delivery). 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).

5.6 The overarching responsibility for coordination of information sharing powers under the Digital Economy Act 2017 will sit with the Department for Science, Innovation and Technology. Each of the chapters listed above contain a provision to modify the list of public authorities which are able to use the data sharing powers through legislation and a power to create a Code of Practice. These could be done separately by the Minister for the Cabinet Office for chapters 3 and 4, and the Secretary of State for chapter 1. However, in recognition of the Department for Science, Innovation and Technology's overarching policy responsibility and to ensure government and Parliamentary time is managed effectively the approach outlined in paragraph 5.5 was chosen.

What was the previous policy, how is this different?

5.7 Under the Order, the digital functions of the Minister for the Cabinet Office as detailed in paragraphs 5.1 - 5.6 are transferred to, or exercised concurrently with, the Secretary of State.

5.8 The Order also provides that the property, rights and liabilities of the Minister for the Cabinet Office, in connection with the digital functions, are transferred to or exercised concurrently with 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 transfer 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").