EXPLANATORY MEMORANDUM TO

THE TRANSFER OF FUNCTIONS (FIRE AND RESCUE SERVICES) ORDER 2016

2016 No. 162

1. Introduction

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

2. Purpose of the instrument

2.1 This Order provides for the transfer of property, rights and liabilities from the Secretary of State for Communities and Local Government to the Home Secretary in consequence of the transfer of functions in relation to fire and rescue services from the Department for Communities and Local Government to the Home Secretary.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 2 of the Ministers of the Crown Act 1975 provides, among other things, that Her Majesty may in connection with any change in the functions of a Secretary of State, by Order in Council make such incidental, consequential and supplemental provisions as may be necessary or expedient in connection with the change, including provisions for the transfer of any property, rights or liabilities to or from a Secretary of State and for the substitution of one Secretary of State, or department of a Secretary of State, for another in any instrument, contract or legal proceedings made or commenced before the date when the Order takes effect.

5. Extent and Territorial Application

5.1 The extent of this instrument is the whole of the United Kingdom.

5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 As part of the Government's wider drive to improve joint working between the police and the fire and rescue service, ministerial responsibility for fire and rescue policy transferred from the Department for Communities and Local Government to the Home Office on 5th January 2016. The decision was announced by the Prime Minister in a Written Ministerial Statement http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-05/HCWS448/

7.2 No transfer of functions order was needed to achieve that transfer as all statutory functions relating to fire and rescue are conferred on the Secretary of State at large rather than a named Secretary of State. This Order makes supplemental provision to that transfer of functions to ensure that all connected property, rights and liabilities to which the Secretary of State for Communities and Local Government is entitled or liable are transferred to the Home Secretary. Some specific "legacy" contracts and litigation are excluded from the transfer and these are set out in the Order (see article 4).

Consolidation

7.3 No consolidation is needed. .

8. Consultation outcome

8.1 No consultation was carried out in respect of this instrument.

9. Guidance

9.1 No guidance will be issued in respect of this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is that policy responsibility for fire and rescue will transfer from the Department of Communities and Local Government to the Home Office.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Department does not intend to monitor or review the operation of this instrument.

13. Contact

13.1 Alan Turnbull at the Department for Communities and Local Government Telephone: 0303 444 2965 or email: alanm.turnbull@communities.gsi.gov.uk can answer any queries regarding the instrument.