EXPLANATORY MEMORANDUM TO

THE TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004 No. 2018

1. This explanatory memorandum has been prepared by the Department for Transport and agreed by the Department for Constitutional Affairs (as the instrument is made by the Lord Chancellor). It is laid before Parliament by Command of Her Majesty.

2. Description

2. The instrument revises the procedures for holding public inquiries into applications for Orders under sections 1 and 3 of the Transport and Works Act 1992 ("the TWA"). The changes in procedure are designed to improve the efficiency and effectiveness of the TWA inquiry process without detracting from the opportunity for interested parties to obtain a fair hearing.

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

3. The Committee's 16th Report (1992/1993) identified a deficiency in the Rules which this instrument replaces (see 4.1 below) in relation to the notice requirements for reconvening an adjourned inquiry. The additional provisions at rule 18(12)(b) of this instrument are designed to address the deficiency.

4. Legislative background

4.1 The instrument is made by the Lord Chancellor under powers conferred by section 9 of the Tribunals and Inquiries Act 1992, following consultation with the Council on Tribunals. It replaces the Transport and Works (Inquiries Procedure) Rules 1992 (SI 1992/2817), subject to transitional provisions.

4.2 The Lord Chancellor has been advised on the instrument by the Department for Transport, as the Government Department with the lead responsibility for handling applications for Orders under the TWA.

5. Extent

5. This instrument applies to England and Wales.

6. Policy background

6.1 Orders under section 1 of the TWA are the usual means of authorising railway, tramway and other guided transport projects in England and Wales. Orders under section 3 of the TWA may authorise inland waterway projects and works interfering with navigation rights. Many applications for TWA Orders are sufficiently contentious to give rise to the need for a public inquiry.

6.2 It is in the interests of all interested parties that the inquiry process should be conducted efficiently at all stages, including during the period leading up to the inquiry, so as to deliver prompt and well-informed decisions at the end of the process. It is also important that the procedures for TWA inquiries should be compatible with those applying to inquiries held under the Town and Country Planning Act, so that where joint TWA and planning inquiries are held they can be managed effectively.

6.3 These new procedure rules follow some changes that have been made to the planning inquiries procedure rules in recent years, whilst having regard to the particular requirements of TWA inquiries and lessons learned from previous such inquiries. The main changes made to the 1992 Rules, and the reasons for them, are described at paragraph 15 of the Regulatory Impact Assessment. The changes were subject to wide public consultation.

7. Impact

7.1 A Regulatory Impact Assessment is attached to this memorandum. The measures to improve the inquiry process are expected to produce net cost savings for inquiry participants, arising from a more efficient and less bureaucratic inquiry procedure and from quicker decisions.

7.2 The impact on the public sector should similarly be positive. No extra staff will be required to administer the new procedure rules, and expected savings in the time spent at an inquiry will benefit the public purse.

8. Contact

8. Ellis Harvey, Head of the TWA Orders Unit at the Department for Transport, 9th Floor, Southside, 105 Victoria Street, London SW1E 6DT (e-mail ellis.harvey@dft.gsi.gov.uk; telephone 0207 944 2483) can answer queries regarding the instrument.

Department for Transport