

**EXPLANATORY MEMORANDUM TO**  
**THE RAILWAYS (PUBLIC SERVICE OBLIGATIONS) REGULATIONS 2010**

**2010 No. 402**

1. This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

The Railways (Public Service Obligations) Regulations 2010 (the “**Instrument**”) has the effect of amending the Railways Act 1993 (the “**Act**”) to take account of Regulation (EC) No 1370/2007 (the “**PSO Regulations**”) which came into force on 3 December 2009.

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

None.

4. **Legislative Context**

4.1 Regulation (EC) no 1370/2007 on public passenger transport services by rail and road entered into force on 3 December 2009. The PSO Regulations set out rules applicable to the compensation of public service obligations in inland transport.

4.2 The PSO Regulations repeal two earlier Council Regulations, namely, (EEC) Nos 1191/69 (the “**1969 Regulations**”) and 1107/70 (the “**1970 Regulations**”). The 1970 Regulations are not mentioned in any UK legislation. The 1969 Regulations are mentioned in one piece of primary legislation, section 136 of the Act, three pieces of secondary legislation amending the Government of Wales Act 2006 and three pieces of secondary legislation concerning Northern Ireland. This Instrument amends only section 136 of the Act to reflect the entry into force of the PSO Regulations.

4.3 The Department has liaised with lawyers in both the Welsh and Northern Ireland devolved administrations, both of whom have confirmed their relevant Ministries propose to update their own legislation.

5. **Territorial Extent and Application**

This instrument applies to Great Britain.

6. **European Convention on Human Rights**

Sadiq Khan has made the following statement regarding Human Rights:

In my view the provisions of the Railways (Public Service Obligations) Regulations 2010 are compatible with the Convention rights.

## **7. Policy background**

7.1 The Regulations lay down important rules on the content and the award procedures relating to public service contracts and on the compensation of public service obligations and hence for the organisation of the market for public passenger transport services in the EU. The PSO Regulations repeal the 1969 Regulations, except insofar as the 1969 Regulations apply to the carriage of goods. The 1969 Regulations shall continue to have effect before 3 December 2012.

7.2 Accordingly, amendments to section 136 of the Act are required. Firstly, to amend the definition of ‘public service obligations regulations’ and secondly, to time limit the period for which the Secretary of State for Transport, Scottish Ministers and the Welsh Minister shall be competent authorities in Great Britain in relation to persons who operate services for the carriage of goods by railway, i.e. freight. For public freight transport services, a transitional period of three years will assist the phasing out of compensation not authorised by the European Commission in accordance with the Treaty.

7.3 The Secretary of State for Transport, Scottish Ministers and Welsh Ministers shall remain the competent authorities in respect of public passenger (i.e. not freight) transport services.

## **8. Consultation outcome**

Although not required by any devolution guidance (because section 136 of the Act is not a devolved matter) Scottish Ministers and Welsh Ministers were consulted on the terms of the Instrument and had no substantive comments to make.

## **9. Guidance**

No guidance is required.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is none.

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

## **11. Regulating small business**

The legislation does not affect small business.

## **12. Monitoring & review**

Not necessary

## **13. Contact**

Rod Paterson at the Department for Transport Tel: 020 7944 5308 or email: [rod.paterson@dft.gsi.gov.uk](mailto:rod.paterson@dft.gsi.gov.uk) can answer any queries regarding the instrument.