

EXPLANATORY MEMORANDUM TO
THE OFFICE OF RAIL REGULATION (CHANGE OF NAME) REGULATIONS 2015

2015 No. 1682

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

2. Purpose of the instrument

The purpose of these Regulations is to change the name of the Office of Rail Regulation to the Office of Rail and Road. The Regulations also makes consequential amendments to primary and secondary legislation.

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

None.

4. Legislative Context

4.1 Part 1 of the Infrastructure Act 2015 (c.7) (“the 2015 Act”) provides for the appointment of strategic highways companies as highway authorities. With effect from 1 April 2015, the Appointment of a Strategic Highways Company Order 2015 (S.I. 2015/376) appointed Highways England Company Limited (“Highways England”) as the strategic highways company and highway authority for the strategic road network in England.

4.2 Section 10 of the 2015 Act provides for the Office of Rail Regulation (“ORR”) to monitor how a strategic highways company exercises its functions. Subsection (9) inserted a new section 15A into the Railways and Transport Safety Act 2003 (c.20) which provides for the ORR’s name to be changed by regulations.

5. Territorial Extent and Application

This instrument extends to Great Britain.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State at the Department of Transport (Mr Andrew Jones) has made the following statement regarding Human Rights:

“In my view the provisions of the Office of Rail Regulation (Change of Name) Regulations 2015 are compatible with the Convention rights.”

7. Policy background

7.1 In July 2013, the previous Government published *Action for Roads: A network for the 21st century*¹ which proposed a new model for the funding and delivery of the strategic road network (motorways and major roads). This included steps to turn the Highways Agency into an organisation at arms-length from Government, specifically a Government-owned strategic highways company funded by Government. The new model would be supported by the introduction of a long-term Road Investment Strategy and establishing a road user watchdog to represent the views of road users, and a highways monitor to monitor the company's performance and efficiency. The overall intention of the reforms was to improve long term planning and funding certainty, and provide greater transparency and clear lines of accountability.

7.2 The 2015 Act (Part 1 of which implements the above reforms) received Royal Assent on 12 February 2015. The previous Government appointed Highways England as the strategic highways company for the whole of England with effect from 1 April 2015. Under the 2015 Act the role of Highways Monitor has been conferred on the ORR. In order to reflect the wishes of Parliament during the passage of the Bill and to give credit for the wider remit and to ensure clarity for the public, the Government has decided to change the legal name of the ORR to the Office of Rail and Road.

8. Consultation outcome

8.1 The previous Government consulted on transforming the Highways Agency into a government-owned company in October 2013². The previous Government's response to the consultation was published in April 2014³. The consultation included proposals for delivering independent, external scrutiny functions via Passenger Focus and the Office of Rail Regulation. Most respondents – while supportive of these functions in principle – disagreed with the preferred option for delivering these functions, though the reasons for this varied widely, with no clear consensus on the best approach. Some respondents wanted to go further in creating a new regulator with a roads-only remit. In light of the feedback the previous Government carefully examined the different options for the advisory bodies, including the possibility of setting up a new free-standing body, but concluded that the skills and experience of the existing organisations meant that they were best placed to carry out these functions. This approach was in keeping with the Government's general policy to make the best use of the skills and experience within existing organisations and to avoid waste.

8.2 The previous Government therefore confirmed that it would set up new discrete units – “Transport Focus” within Passenger Focus and a “Highways Monitor” within the

¹ See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212590/action-for-roads.pdf.

² See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254356/roads-reform-consultation-document.pdf.

³ See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307286/ha-response-web-version.PDF.

ORR – to represent the interests of the users of the strategic road network, and to monitor the efficiency and performance of the company.

8.3 The ORR consulted its stakeholders about the new name and it is already conducting its business under the new name.

9. Guidance

The provisions of these Regulations do not require guidance.

10. Impact

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

10.2 The impact on the public sector is minimal. A small element of ORR's grant in aid for the first year of operations was allocated to support rebranding activities.

10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Government does not intend to put in place any specific monitoring of these Regulations. The 2015 Act will be subject to Post Implementation Review in the usual way, in keeping with wider Government policy.

13. Contact

Jennifer Stocks at the Department for Transport Tel: 020 7944 3493 or email: Jennifer.Stocks@dft.gsi.gov.uk can answer any queries regarding the instrument.