EXPLANATORY NOTE

(This note is not part of the Order)

This instrument transfers statutory functions, so far as exercisable in relation to England and Wales, from the British Waterways Board (the Board) to Canal & River Trust. It also makes consequential amendments to provide for the Board to continue to exist as a statutory corporation exercising statutory functions in relation to Scotland.

Article 2(1) and Schedule 1 provide for the transfer of certain statutory functions exercisable by the Board in relation to England and Wales to Canal & River Trust. The statutory functions are those exercisable by the Board under or by virtue of the enactments listed in Schedule 1 (and so include functions in subordinate legislation made under those enactments), and functions under or by virtue of any local Act. The statutory functions include functions which were transferred to the Board from the British Transport Commission under the Transport Act 1962 (c. 46). A number of functions under that Act and the Transport Act 1968 are not transferred.

Article 2(2) and Schedule 2 makes amendments to the Transport Act 1962 and the Transport Act 1968. The amendments made by Schedule 2 include amendments to the Transport Act 1968 to give Canal & River Trust a right to apply to the minister for the making of an Order under section 104(3) of that Act (for the reclassification of inland waterways), and to require the Minister to have regard to the financial position of Canal & River Trust in deciding whether to make any such Order. There are further related amendments to sections 105 and 106 and to Schedule 13. Article 2(3) and Schedule 3 make amendments to primary and secondary legislation (and Acts of the Scottish Parliament). The amendments made by Schedule 3 include an amendment to the Local Government and Planning Act 1980 (c. 65) to provide that Canal & River Trust is not a statutory undertaker for the purposes of Part 10 of that Act.

Article 2(5) and (6) provide for certain statutory references to the Board to be changed to references to Canal & River Trust, in relation to England and Wales.

Article 3 provides for the transfer of functions exercisable by the Board as a harbour authority, navigation authority or statutory undertaker in relation to England and Wales to Canal & River Trust.

Article 4 contains provision for the continued validity or effect of things done by or in relation to the Board following the transfer of functions.

Article 5 and Schedule 4 contain transitional provisions relating to reporting and accounting obligations in relation to the Board with respect both to the last financial year for which the Board operated as a statutory corporation in Great Britain and for the period between the end of that year and the coming into force of this instrument.

Article 6 contains savings in relation to the continued validity of appointments to the Board made by Scottish Ministers before the coming into force of this instrument and in relation to orders made under section 74 of the Transport Act 1962 (which deals with matters concerning pensions).

Article 7 contains a revocation.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available on the Defra website at www.defra.gov.uk, and is published with the Explanatory Document alongside the instrument on www.legislation.gov.uk.