

EXPLANATORY MEMORANDUM TO
THE INTELLIGENT TRANSPORT SYSTEMS (EU EXIT) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Sifting Committees.

2. Purpose of the instrument

- 2.1 This instrument uses powers under the European Union (Withdrawal) Act 2018 to remove provisions from retained direct EU legislation on Intelligent Transport Systems.

Explanations

What did any relevant EU law do before exit day?

- 2.2 The Intelligent Transport Systems EU legislation ensures European compatibility, interoperability and continuity for the deployment and operational use of intelligent transport systems, relevant data and procedures. The legislation requires that the relevant data can be accessed and shared in a common standardised format through a national access point.

Why is it being changed?

- 2.3 The revocation of the Intelligent Transport Systems EU legislation will remove technical deficiencies.

What will it now do?

- 2.4 The requirements of the Intelligent Transport Systems EU legislation will continue to be met by administrative means.

3. Matters of special interest to Parliament

Matters of special interest to the Sifting Committees

- 3.1 This instrument is being laid for sifting under the European Union (Withdrawal) Act 2018.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is all of the United Kingdom.

4.2 The territorial application of this instrument is all of the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The EU Intelligent Transport Systems Directive (2010/40/EU) creates the framework for interoperable deployment of Intelligent Transport Systems. The Directive defines Intelligent Transport Systems as “advanced applications which without embodying intelligence as such aim to provide innovative services relating to different modes of transport and traffic management and enable various users to be better informed and make safer, more coordinated and ‘smarter’ use of transport networks.”

6.2 The Directive empowered the Commission to adopt, through delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU), the necessary specifications to ensure compatibility, interoperability and continuity for the deployment and operational use of Intelligent Transport Systems.

6.3 Five Delegated Regulations relating to these priority actions have been adopted since the Intelligent Transport Systems Directive came into force. In addition there are four EU Decisions that still apply. The Regulations have provided specifications for data and procedures for lorry parking information, road-safety related traffic information, real-time traffic information and multi-modal travel information. EU exit issues relating to the eCall Delegated Regulation 305/2013 and Decision 585/2014/EU are being considered by the Department for Digital, Culture, Media and Sport as the policy lead.

6.4 The Intelligent Transport Systems EU Regulations are only applied to applications and services when they are deployed in a Member State territory. For example, the relevant road authority would be within scope of the Intelligent Transport Systems EU Regulation where they deploy the use of detection systems to identify potential hazards and report this road safety related traffic information to road users via variable message signs on the TEN-T road network.

7. Policy background

What is being done and why?

7.1 The Department has undertaken an exercise to identify the possible legislative changes that may be required in relation to the non-eCall Intelligent Transport Systems EU Regulations and Decisions in order to ensure that UK domestic law works properly after EU exit. It identified several policy options:

- Do nothing – not to use the powers under the European Union (Withdrawal) Act 2018 to remove provisions from retained direct EU legislation on Intelligent Transport Systems.
- Amend – to provide a SI to address the technical deficiencies and ensure the ITS Regulations operate effectively arising from the withdrawal of the UK from the EU.
- Revoke – to revoke the Intelligent Transport Systems EU Regulations.

- 7.2 There is a requirement to correct the technical deficiencies within the Intelligent Transport Systems Regulations and to ensure that our domestic law works properly after EU exit. The Department has concluded that the four Intelligent Transport Systems EU Regulations and three Decisions should be revoked using Section 8 of the European Union (Withdrawal) Act.
- 7.3 The “amend” option was considered a disproportionate response which would serve no tactical purpose because the Intelligent Transport Systems EU Regulations:-
- (i) can continue to be met by administrative measures; and
 - (ii) have not been transposed into UK law.
- 7.4 The UK is an early adopter of these technologies and brought its experience to the Expert Working Groups which assisted the drafting of the EU Regulations. The Department ensured that the Regulations met the current working practices of the UK national road operators so compliance and reporting requirements have been easily met.
- 7.5 This instrument applies to road transport which is a transferred matter for Northern Ireland under of the Northern Ireland Act 1998. The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU Exit where the Government wants devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. The Government has been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day absent a Northern Ireland Executive. With exit day less than one year away, and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland’s statute book for exit is narrowing. UK Government Ministers have therefore decided that in the interest of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument.
- 7.6 The Department for Transport will continue to work closely with the devolved administrations to ensure that the administrative measures are appropriate.

8. Consolidation

- 8.1 Not appropriate.

9. Consultation outcome

- 9.1 The devolved administrations of Scotland and Wales have provided formal consent for the UK Government Ministers to use their powers to make regulations for these devolved territories. Consultation has also taken place through officials to ensure that the appropriate administrative measures are in place.

10. Guidance

- 10.1 It is not considered necessary to issue specific guidance in connection with these Regulations

11. Impact

- 11.1 Three out of the four Regulations only relate to the European designated TEN-T road network which will have limited application following Brexit exit day.

- 11.2 The impact on business, charities or voluntary bodies is minimal. Some private sector data service providers are within scope but the current compliance arrangements will be adequately met through administrative means.
- 11.3 The impact on the public sector is minimal.
- 11.4 There is no impact assessment because the costs and benefits to business are expected to fall below £5m net in any one year.
- 11.5 The impact on business and road operators will be negligible because the revocation will maintain the current situation. The Department will continue to work with these organisations to deliver the requirements arising from the Intelligent Transport Systems (EU) Regulations through administrative measures.

12. Regulating small business

- 12.1 The legislation does apply to activities that are undertaken by small businesses.
- 12.2 As this instrument maintains the current administrative measures and is not anticipated to have any impact on small businesses, it is not necessary to take action to minimise the impact of the requirements on small businesses.

13. Monitoring & review

- 13.1 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

14. Contact

- 14.1 Graham Hanson at the Department for Transport email: graham.hanson@dft.gov.uk can be contacted with any queries regarding the instrument.
- 14.2 Anthony Ferguson, Deputy Director for the Traffic and Technology Division at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.
- 14.3 Parliamentary Under Secretary of State for Transport, Jesse Norman MP at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister’s opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument’s effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

1. Sifting statement

- 1.1 The Minister of State for Transport, Jesse Norman MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Intelligent Transport Systems (EU Exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

- 1.2 This is the case because: this legislation does not fall within the categories for which use of the affirmative procedure is required under the European Union (Withdrawal) Act 2018 and its impact is minimal.

2. Appropriateness statement

- 2.1 The Minister of State for Transport, Jesse Norman MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Intelligent Transport Systems (EU Exit) Regulations 2018 do no more than is appropriate”.

- 2.2 This is the case because: the Regulations revoke direct EU legislation for the reasons set out in section 7(1) to (3) of this explanatory memorandum.

3. Good reasons

- 3.1 The Minister of State for Transport, Jesse Norman MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 3.2 These are for the reasons set out in section 7(1) to (3) of this explanatory memorandum.

4. Equalities

- 4.1 The Minister of State for Transport, Jesse Norman MP, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

- 4.2 The Minister of State for Transport, Jesse Norman MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Jesse Norman have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

- 5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.