

EXPLANATORY MEMORANDUM TO

THE RAIL PASSENGERS' RIGHTS AND OBLIGATIONS REGULATIONS 2010

2010 No. 1504

1. Introduction

1.1 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

2.1 This instrument makes changes to domestic legislation to facilitate the application of Regulation (EC) No. 1371/2007 on Rail Passengers' Rights and Obligations ("the Regulation"). It also designates the Office of Rail Regulation ("the ORR") as the body responsible for the enforcement of the Regulation and designates Passenger Focus and London TravelWatch as bodies to which complaints may be directed regarding alleged infringements of this Regulation, and makes provision regarding their duties and powers in those respects.

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

3.1 None.

4. Legislative Context

4.1 Regulation (EC) No. 1371/2007 strengthens and harmonises the rights of rail passengers across the European Community. It applies to both international and domestic services. However, in respect of Great Britain, the UK has taken advantage of the power in Article 2(4) of the Regulation to grant exemptions from the application of some of its provisions to domestic services. The instrument exercising this power is the Rail Passenger Rights and Obligations (Exemptions) Regulations (SI 2009/2970). Further background on this policy is found in the Explanatory Memorandum to that instrument.

4.2 Although the Regulation is directly applicable, domestic measures need to be taken to facilitate its enforcement, avoid inconsistencies with domestic legislation and minimise any adverse impact.

4.3 As far as international services are concerned, prior to the coming into force of the Regulation, the main domestic instrument protecting passengers' rights was the Railways (Convention on International Carriage by Rail) Regulation 2005, SI 2005/2092, giving legal effect to the Convention concerning International Carriage by Rail (COTIF), of which the Regulation reproduces substantial parts.

4.4 The main instrument in relation to rail regulation is the Railways Act 1993. Under section 6, station managers and infrastructure managers need a licence in order to operate. Furthermore, under the Railways (Licensing of Railway Undertakings) Regulations 2005 (SI 2005/3050), train operating companies also need a licence in order to operate. Under sections 55 to 58 of the 1993 Act, the Office of Rail Regulation (ORR) has various powers to regulate the railway. These include a power to impose orders on operators that do not comply with a licensing requirement.

4.5 The Regulation makes provision in relation to remedies for breach of certain passenger rights. In Great Britain, the main domestic instruments relating to such rights are: the Civil Liability (Contribution) Act 1978 and section 3 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940, on the liability for contribution between persons causing damage; the Fatal

Accidents Act 1976 and the Damages (Scotland) Act 1976, on actions by dependants after fatal accidents; the Damages Act 1996, on damages taking the form of periodical payments; and the Civil Procedure Rules 1998, the Rules of the Court of Session 1994 and the Ordinary Cause Rules 1993, in respect of civil litigation procedure.

4.6 The Regulation also makes provision in respect of the rights of disabled persons and persons of reduced mobility. In the UK, the main instrument protecting those rights is the Disability Discrimination Act 1995. It will at some point in the future be repealed, and to a large extent replaced, by the Equality Act 2010, but the relevant provisions in that Act have yet to be commenced. In addition, the Equality Act 2006 makes provision for the Equality Commission to provide conciliation services in respect of certain claims under the 1995 Act.

4.7 Article 26 of the Regulation requires railway operators to take adequate security measures, in agreement with public authorities. In Great Britain, relevant provisions concerning rail security include Part 3 of the Railways and Transport Safety Act 2003 and the British Transport Police (Police Services Agreements) Regulations 2004 (SI 2004/1522), made under section 34 of the 2003 Act. Together, they require most railway operators to enter into an agreement with the British Transport Police Authority in relation to the policing of railway services and assets, and place various duties on the Secretary of State and the British Transport Police Authority to ensure the efficient and effective policing of the railway. Also relevant is section 119 of the Railways Act 1993, which gives the Secretary of State the power to issue directions regarding railway security.

4.8 The proposal which resulted in Regulation EC 1371/2007 was published by the European Commission as part of the 'Third Rail Package' of documents and was the subject of a combined Explanatory Memorandum (EM) numbered 7170/04, 7147/04, 7172/04, 7149/04, 7148/04, and 7150/04 submitted to Parliament by the Department for Transport on 30 March 2004.

4.9 The House of Commons European Scrutiny Committee considered the EM on 21 April 2004. The Committee recommended that the document was of political interest and did not clear it (Report 17, session 2003/04). Ministerial letters were sent to the Committee Chairman to provide further information and keep the Committee informed of the progress of EU negotiations on 1 September 2004, 24 September 2004, 29 November 2004, 14 January 2005, 13 July 2005, 25 November 2005, 17 January 2007, 19 February 2007, and 11 July 2007. On 19 January 2005 the Committee recommended that the document was politically important and should be debated (Report 4, session 2004/05). The debate took place on 9 March 2005.

4.10 The House of Lords Select Committee on the European Union referred the EM to its Sub-Committee B for consideration (1176th sif, 6 April 2004). On 21 April the Chairman wrote to the Minister maintaining the scrutiny reserve. Ministerial letters were sent to the Committee Chairman to provide further information and keep the Committee informed of the progress of EU negotiations on 1 September 2004, 24 September 2004, 8 November 2004, 29 November 2004, 14 January 2005, 13 July 2005, 25 November 2005, 17 January 2007, 19 February 2007, and 11 July 2007. The scrutiny reserve was lifted in a letter from the Chairman to the Minister of 7 December 2005.

5. Territorial Extent and Application

5.1 This instrument extends to Great Britain.

6. European Convention on Human Rights

6.1 Theresa Villiers, Minister of State of the Department for Transport, has made the following statement regarding Human Rights:

In my view the provisions of the Rail Passengers' Rights and Obligations Regulations 2010 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 The purpose of the Regulation is to harmonise the rights of, and obligations on, rail passengers throughout the Community. It contains a number of core provisions, which must be applied to all rail services. It also contains other provisions, sometimes referred to as “the non-core provisions”, which may, at the discretion of Member States, be the subject of exemptions as described above at paragraph 4.1. The core provisions of the Regulation have been in force in the UK since December 2009 and for international services in the UK both core and non core elements have been in force from the same date. The position of domestic services in Great Britain is described above at paragraph 4.1, which, in turn, refers to SI 2009/2970 and its Explanatory Memorandum.

7.2 The principal core provisions relate to train companies' liability for carrying passengers and their luggage (including for personal injury and damage to property), to the right to transport of disabled people and people with reduced mobility, and the personal security of passengers.

7.3 The other provisions relate primarily to the information to be provided to passengers; companies' obligations to passengers in the event of delay, missed connections and cancellations; the definition and monitoring of service quality standards; and the handling of complaints.

7.5 This Statutory Instrument makes various provisions to ensure the effective and efficient implementation of the Regulation in Great Britain.

7.6 Firstly, it makes provisions to prevent overlaps between the Regulation and the instruments listed at paragraph 4.5 above.

7.7 Secondly, it also makes provision in respect of the procedure to enforce the right to an “advance payment”. This is a payment which the Regulation requires railway undertakings to make to the victims of accidents, and their dependents, shortly after the accident, to cover their short-term economic needs. The payment will, in the vast majority of cases, have to be made before liabilities have been ascertained. Because the time limit to make the advance payment is short, and does not depend on whether the undertaking has all the information to make it, there is a risk that an undertaking might be, technically, in breach of the Regulation, and that it could even have to pay damages, in addition to the award itself, for the losses consequential upon the delay, through no fault of its own. To reduce the risk of unfairness, this instrument allows the courts, to the extent that this is compatible with the Regulation, to reduce the damages it would award for a breach of the right to an advance payment where the undertaking acted reasonably. It also requires the claimant, before taking the case to court, to contact the undertaking, leaving it two weeks to reply. This encourages the parties to start a dialogue before taking cases to court, and it may therefore encourage amicable settlements. As the adequacy of the information provided by the claimant could be a factor that the court takes into account in deciding whether the undertaking acted reasonably, it will also encourage claimants to provide adequate information as soon as possible. Because the substance of the right conferred by the Regulation is not affected (only the court process and remedies for breach of the right are covered), because the time which the claimant must give to the undertaking to respond is short, and because the discretion of the court to reduce the award is expressly made subject to the Regulation, we consider that the provisions of the instrument relating to advance payment are compatible with the Regulation.

7.8 In any event, it may be that the right to an advance payment will not give rise to a great amount of litigation, since the railway industry has already in place a scheme, called the Claims Allocation and Handling Agreement, which involves making an advance payment to victims and their dependents, and which allows intra-industry disputes relating to an accident to be settled out of court, without passengers and their dependents being affected.

7.9 Thirdly, in relation to the enforcement of the rights of disabled persons and persons of reduced mobility, to avoid double regulation, the instrument disapplies some provisions of the Disability Discrimination Act 1995 that would apply to them where their rights are already governed by the Regulation, but ensures that the remedies available for breach of such rights are similar to those that apply under the 1995 Act. We are aware that the 1995 Act will be repealed by the Equality Act 2010 when the relevant provisions in that Act come into force. We will take adequate measures to ensure that, when this happens, there is, again, no overlap between the 2010 Act and the Regulation, but that the remedies for breach of the Regulation continue to be the similar to those under that Act.

7.10 Fourthly, the instrument makes provision with regards to enforcement. The Regulation requires member states to designate enforcement bodies and bodies to whom complaints concerning alleged infringements can be referred. The instrument designates the ORR to fulfil the former role, and the Rail Passengers' Council (known as Passenger Focus) and the London Transport Users' Committee (known as London TravelWatch) to fulfil the latter. However, in respect of Article 26 of the Regulation on security, the ORR will not be the enforcement body. Enforcement will be ensured partly through the existence of Part 3 of the Railways and Transport Safety Act 2003 and the designation under SI 2004/1522 (see paragraph 4.7 above). In the case of operators who have not been designated under that SI, or where the scheme was otherwise inadequate, this instrument puts the Secretary of State under an obligation to use his powers under section 119 of the Railways Act 1993 (as to which, see paragraph 4.7) in order to ensure that Article 26 is applied.

7.11 Where the ORR is the enforcement body, it is intended that it will enforce the Regulation through its existing powers. In addition, it will have a duty to include, or require to be included, licensing conditions that ensure the enforcement of the provisions of the Regulation imposing obligations on railway operators. Breach of licensing conditions may then lead to enforcement action by the ORR, as explained in paragraph 4.4 above. The instrument also extends the powers of the ORR in relation to some unlicensed operators, namely independent ticket vendors and the station managers on the High Speed 1 rail link.

- Consolidation

7.12 The only amendment to secondary legislation which this instrument makes is in respect of the COTIF Regulations (see paragraph 4.3), to which it adds one short regulation. It is considered that that amendment would not justify consolidating the COTIF Regulations.

8. Consultation outcome

8.1 The Department ran a consultation on the proposed method of implementation of the Regulation. The consultation included a draft version of the SI covered by this guidance note. It can be found at <http://www.dft.gov.uk/consultations/closed/passengerrights/>.

8.2 Consultees were generally in favour of the proposed approach of using licensing as the primary route for enforcement. There was some concern that licence conditions should not be changed without some form of consultation and also that the ORR should only use its enforcement powers in proportion to any breaches to the Regulation. The ORR is to consult informally on the wording of the licence conditions and proportionality is a general principle of EU law.

8.3 There was general support for the designation of the Rail Passenger Council (Passenger Focus) and London Transport Users' Committee (London TravelWatch).

8.4 There was also support for the approach to dealing with issues for people with reduced mobility. There was some concern about the removal of a limit to the compensation due in the

case of hurt feeling for people with disabilities as this is currently limited to a “prescribed amount” under the Disability Discrimination Act. In reality, the “prescribed amount” has never been set and it is not proposed to set a limit in the Equality Act 2010 which will replace the Disability Discrimination Act in due course. For these reasons, we are not placing a limit on the compensation payable for hurt feelings.

8.5 There was some concern about the way that compensation following accidents would be handled under the Regulation and in particular the way that advance payments would be dealt with. The SI has been amended to take into consideration these comments, deleting a detailed provision on intra-industry claims relating to advance payments, giving the court a broader discretion in relation to remedies for breach of the right to an advance payment, and making this discretion expressly subject to EU law.

8.6 The ORR was also concerned about taking on responsibilities regarding enforcement of the Regulation with respect to personal security. The SI has now been amended, as detailed above.

8.7 There was a mixed response to the proposed treatment of ticket vendors who are not also railway undertakings. Some consultees were concerned that the threat of enforcement by the Office of Rail Regulation in the event of failure to comply with the Regulation could deter some smaller retailers from continuing to offer this service. It was also suggested that since all retailers which were not railway undertakings were effectively agents of either the Association of Train Operating Companies or individual train operators, there was no need to enforce against the ticket vendors themselves. Others pointed out that it would not be right for passengers purchasing from some ticket vendors to have a lower level of rights in respect of their travel. Having considered the consultation responses we are proceeding with enforcement by the ORR directly on ticket vendors. Currently, this will only impact on ticket sales in relation to international travel, but in due course this will also apply to domestic travel.

8.8 In addition, the ORR also pointed out that some station managers on HS1 might not be subject to enforcement through the licensing regime. This has now been remedied.

8.9 There was a mixed response regarding the application of the Regulation to all or some domestic services. Some consultees were very keen that the Regulation should be applied to the greatest extent as soon as possible. Others were concerned about the cost of the Regulation and were keen to postpone application as long as possible and to restrict the application to the greatest extent possible. This SI does not change the application of the Regulation to domestic services and the Government is still considering the continuation of the existing exclusion from non core aspects of the Regulation for domestic services.

9. Guidance

9.1 Guidance on the operation of the Regulation will be produced to accompany this SI. Further guidance will be issued when a final decision about the extent of the application of the Regulation has been taken and the implementing instrument is laid.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal as far as domestic services are concerned, since, so far, railway operators do not have to face the impact of most provisions. As set out above, this is subject to review. As far as international services are concerned, the impact will be more important.

10.2 The impact on the public sector is also small until non core aspects of domestic services are brought within scope by the removal of the exemption. However, the ORR, Passenger Focus

and London TravelWatch will all have explicit new obligations regarding dealing with infringements of the Regulation by international operators.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small businesses. Given the amount of capital necessary to start a railway operation, there are few small businesses operating in the industry itself. However, there are some small businesses in the ticket vending business and they will have some new responsibilities under the Regulation.

12. Monitoring & review

12.1 The operation of this Statutory Instrument will be reviewed at the time that the exemption of domestic services from non core elements of the Regulation is reviewed which can be no later than 2014.

13. Contact

13.1 David Hibbs at the Department for Transport, tel: 020 7944 5036 or email: david.hibbs@dft.gsi.gov.uk, can answer any queries regarding the instrument.

Title: Rail Passenger Rights and Obligations Regulations 2010 Lead department or agency: Department for Transport Other departments or agencies:	Impact Assessment (IA)
	IA No: DFT00001
	Date: 14/05/2010
	Stage: Final
	Source of intervention: EU
	Type of measure: Secondary legislation
	Contact for enquiries: David Hibbs

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The European Regulation No 1371/2007 is a mandatory regulation aimed at enhancing the rights of passengers on rail services. 1371/2007 became law in December 2009 though many elements currently only apply to international services due to Statutory Instrument 2970/2009 which excluded UK mainland domestic services from many elements for up to five years. To comply with the regulation one requirement on the UK is to designate an enforcement body and complaint handlers to which passengers can complain if they believe that there has been a failure to comply with the Regulation. Another is to ensure the effective implementation of the Regulation. The SI considered in this Impact Assessment does not bring any extra requirements on industry, it provides a enforcement mechanism for existing duties.

What are the policy objectives and the intended effects?

The overall policy is aimed at enhancing and strengthening the rights of rail passengers in the areas of information provision, compensation and assistance, and rights for people with reduced mobility (PRM) and enforcement of those rights.

This particular Statutory Instrument will designate bodies to deal with complaints regarding alleged failures to comply with the Regulation. It will also remove the potential for double regulation or confusion between the Regulation and pre-existing domestic legislation, and make provisions regarding enforcement.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The Regulation became law in December 2009 and places a legal requirement on the UK to identify the enforcement body and complaints bodies and to give them proper powers to enforce it, and so there is no legal alternative to designation of appropriate bodies and granting on them of effective powers. The preferred option, as consulted on in 2009, is to designate existing bodies to take on the enforcement and complaints handling duties, and to use existing civil enforcement systems. This option minimises the costs of compliance by making use of existing organisations which already have systems which require relatively small changes to enable them to undertake their new duties.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved? It will be reviewed 11/2014

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review? Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: Theresa Villiers

Date: 26th May 2010

Summary: Analysis and Evidence Policy Option 1

Description:

Price Base Year NA	PV Base Year NA	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: NA
COSTS (£m)	Total Transition (Constant Price) Year		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	Optional	NA	Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	NA		NA	NA	
Description and scale of key monetised costs by 'main affected groups' n/a					
Other key non-monetised costs by 'main affected groups' Minimal impact expected on the costs of the Office of Rail Regulation and the complaints handling bodies through an increase in administrative processes.					
BENEFITS (£m)	Total Transition (Constant Price) Year		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low	Optional	NA	Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	NA		NA	NA	
Description and scale of key monetised benefits by 'main affected groups' n/a					
Other key non-monetised benefits by 'main affected groups' Clarity over enforcement/complaints bodies and the removal of potential confusion regarding double regulation/conflict between older legislation and the Regulation itself.					
Key assumptions/sensitivities/risks				Discount rate (%)	NA
This impact assessment only covers the issues arising from the establishment of an enforcement regime, complaints handling bodies and removal of potential overlap with existing UK legislation.					
Impact on admin burden (AB) (£m): New AB: NA AB savings: NA Net: NA			Impact on policy cost savings (£m): Policy cost savings: NA		In scope No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			Great Britain		
From what date will the policy be implemented?			08/06/2010		
Which organisation(s) will enforce the policy?			ORR (primarily)		
What is the annual change in enforcement cost (£m)?			None		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A	Benefits: N/A	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro NA	< 20 NA	Small NA	Medium NA	Large NA
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	Yes	5
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	NA
Small firms Small Firms Impact Test guidance	No	NA
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	NA
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	NA
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	NA
Human rights Human Rights Impact Test guidance	No	NA
Justice system Justice Impact Test guidance	No	NA
Rural proofing Rural Proofing Impact Test guidance	No	NA
Sustainable development Sustainable Development Impact Test guidance	No	NA

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No. Legislation or publication

1 Consultation on the Passenger Rights and Obligations Regulation Implementation 11th August 2009.
<http://www.dft.gov.uk/consultations/closed/passengerrights/>

2

3

4

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

The Regulation 1371/2007 (“the Regulation”) concerning the rights and obligations of rail passengers came into force in December 2009. Some elements of the Regulation are deemed to be non mandatory and a Statutory Instrument (2970/2009) exempted domestic rail services in the UK (excluding Northern Ireland) from these elements for a period of up to five years. Non mandatory elements have applied on international services and mandatory elements have applied to all services since December 2009.

The Regulation contains a requirement to designate an enforcement body to ensure compliance and this impact assessment specifically focuses in on the impact of the Statutory Instrument xxxx/2010 which designates the Office of Rail Regulation as the enforcement body for most elements of the Regulation. The Statutory Instrument also designates Passenger Focus and London Travel Watch as bodies to which complaints about alleged non compliances could be addressed and also deals with a number of potential conflicts between the Regulation and pre-existing legislation.

The Regulation also requires the UK to take measures to ensure that its enforcement is effective. This will be through existing systems. For most of the requirements of the Regulation, conditions will be imposed on rail licences. The requirements concerning personal security of passengers, the Railways Act 1993 and the Railways and Transport Safety Act 2003 already give powers to the Secretary of State to instruct railway operators in respect of personal security. In practice, operators having in place a Police Services Agreement with the British Transport Police are expected to have met the requirements of the Regulation and the ORR will not be involved with enforcement in this area.

The main impacts of the Regulation occurred when it came into force in December 2009 or will occur if and when the current exemption of UK (mainland) domestic services is removed. The cost of this Statutory Instrument is expected to be minimal due to additional administrative costs as suggested through responses to the consultation. The enforcement and complaints bodies already have systems in place and do not expect a significant increase in workload (at least whilst there is an exemption for domestic services). The cost of compliance with the Regulation by railway operators is not covered as part of this Impact Assessment, since compliance is imposed by the Regulation, not the SI.

Statutory Instrument xxxx/2010 is about enforcement of existing rights, complaints handling and clarification of the relationship with existing legislation. Some of the protected rights are related to people with reduced mobility (including people with disabilities). This Statutory Instrument will make it easier to complain and seek enforcement of these rights although the Statutory Instrument itself does not introduce any extra rights.

There are no specific implications with respect of race equality or gender equality.

A preliminary Impact Assessment for the total impact of the fully implemented Regulation was published with the consultation on the implementation of the Regulation in 2009. Further work is taking place on the overall impact and will be published when a decision is made on the continuation or otherwise of the current exemption arrangements for UK domestic services.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];

Best practice to ensure that the operation has been as expected and to seek opportunities for improvement.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

To ensure that the operation has been as expected and to seek opportunities for improvement.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

Simple examination of experience to date including feed-back from stakeholders.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

The baseline is that there is currently no enforcement regime to support the Passenger Rights and Obligations Regulation.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Success will be that passengers wishing to complain have access to a system that effectively deals with their complaints without undue burden on complainants, the enforcing agencies or those being regulated.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

Passenger Focus and London TravelWatch already monitor their complaints handling activities and the ORR already monitors its enforcement activity and this is expected to continue.

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]

Add annexes here.