

**EXPLANATORY MEMORANDUM TO**  
**THE EUROPEAN COMMUNITIES (DESIGNATION) (NO. 2) ORDER 2010**  
**2010 No. 1552**

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order designates the Secretary of State, any Northern Ireland department and the Welsh Ministers so that they may exercise the powers conferred by section 2(2) of the European Communities Act 1972 (“section 2(2)”) in relation to the safety management of road infrastructure.

2.2 This Order also designates the Welsh Ministers in relation to the prevention, reduction and management of waste.

2.3 This Order also designates the Secretary of State and any Northern Ireland department in relation to the environmental aspects of product design.

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

None.

**4. Legislative Context**

4.1 Section 2(2) confers a power which may be exercised by a designated Minister or government department.

4.2 A designated Minister or government department can make provision by order, rules, regulations or scheme for the purpose of enabling an EU right to be exercised or implementing an EU obligation (or to deal with matters arising out of or related to any such obligation) in relation to the subject matter of the designation.

Designation of the Secretary of State, the Welsh Ministers and any Northern Ireland department in relation to the safety management of road infrastructure

4.3 Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management<sup>1</sup> requires the establishment and implementation of procedures relating to road safety impact assessments, road safety audits, the management of road network safety and safety inspections by the Member States in relation to certain roads which have been identified by the EU as forming part of a trans-European road network.

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<sup>1</sup> OJ L 319, 29.11.2008, p. 59-67. A copy of Directive 2008/96/EC can be accessed via the following link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:319:0059:0067:EN:PDF>

## Designation of the Welsh Ministers in relation to the prevention, reduction and management of waste

4.4 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives<sup>2</sup> lays down measures to protect the environment and human health by preventing or reducing the adverse impact of the generation and management of waste and by reducing the overall impact of resource use and improving the efficiency of such use.

## Designation of the Secretary of State and any Northern Ireland department in relation to the environmental aspects of product design

4.5 Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast)<sup>3</sup> establishes a framework for the setting of environmentally-friendly requirements for products that have an impact on energy use with the aim of ensuring the free movement of such products within the internal market.

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom (although territorial restrictions on designations of Northern Ireland departments and Welsh Ministers appear in Article 6).

## **6. European Convention on Human Rights**

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

## **7. Policy background**

### Designation of the Secretary of State, the Welsh Ministers and any Northern Ireland department in relation to the safety management of road infrastructure

7.1 The Secretary of State and the devolved administrations in Northern Ireland and Wales propose to make legislation under section 2(2) to implement Directive 2008/96/EC. This Order designates the Secretary of State, the Northern Ireland departments and the Welsh Ministers for that purpose.

7.2 In order for the Directive to be implemented, it is necessary for new regulations to be adopted. More specifically, the Secretary of State and the devolved administrations in Northern Ireland and Wales intend to make regulations to implement procedures relating to road safety impact assessments, road safety audits and the training and appointment of auditors, the safety ranking and the management of road network safety as well as safety inspections.

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<sup>2</sup> OJ L 312, 22.11.2008 p 3-30. A copy of Directive 2008/98/EC can be accessed via the following link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:312:0003:0003:EN:PDF>.

<sup>3</sup> OJ L 285, 31.10.2009, p . A copy of Directive 2009/125/EC can be accessed via the following link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:285:0010:0035:en:PDF>.

7.3 The designation includes obligations concerning the safety aspects of road infrastructure covered by the Directive, but it could also apply in relation to obligations arising from a future instrument amending the Directive, or other EU obligations concerning the safety management of road infrastructure.

#### Designation of the Welsh Ministers in relation to the prevention, reduction and management of waste

7.4 The devolved administration in Wales proposes to make legislation under section 2(2) to implement Directive 2008/98/EC. This Order designates the Welsh Ministers for that purpose.

7.5 In order for the Directive to be implemented, it is necessary for new regulations to be adopted. More specifically, the Welsh Ministers intend to make regulations with the Secretary of State that would transpose the Directive's requirements into domestic law. Directive 2008/98/EC places greater emphasis on resource efficiency and waste prevention as an objective alongside protection of the environment and human health. The Directive includes a requirement for the separate collection of waste where technically, environmentally and commercially practicable; a requirement for waste management plans and waste prevention programmes; and targets for the re-use and recycling of waste. In addition to making provision for implementation of these obligations the regulations will make necessary amendments to the existing system of waste management to meet the objectives of the Directive.

7.6 The designation includes but is not restricted to obligations concerning waste covered by the Directive. It could also apply in relation to obligations arising from a future instrument amending the Directive or other EU obligations concerning the prevention, reduction and management of waste.

#### Designation of the Secretary of State and any Northern Ireland department in relation to the environmental aspects of product design

7.7 The Secretary of State and the devolved administration in Northern Ireland propose to make legislation under section 2(2) to implement Directive 2009/125/EC. This Order designates the Secretary of State and the Northern Ireland departments for that purpose.

7.8 In order for the Directive to be implemented, it is necessary for new regulations to be adopted. More specifically, the Secretary of State and the devolved administration in Northern Ireland intend to make regulations which extend the existing framework for the setting and testing of Energy Using Products so that it applies not only to products which consume fossil fuels but to all energy-related products having an impact on fossil fuel consumption.

7.9 The designation covers obligations concerning the environmental aspects of product design included in the Directive, but it could also apply in relation to obligations arising from a future instrument amending the Directive or other EU obligations concerning the environmental aspects of product design.

## **8. Consultation outcome**

As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation was carried out.

## **9. Guidance**

As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

## **11. Regulating small business**

The Order does not apply to small business.

## **12. Monitoring & review**

12.1 The designations in this and similar Orders are intended to identify clearly the subject areas in relation to which a Minister or government department is designated.

12.2 The designations contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

## **13. Contact**

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Cabinet Office  
European and Global Issues Secretariat  
9th June 2010