

**EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) ORDER 2014**

2014 No. 1362

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 Section 2(2) of the European Communities Act 1972 (“ECA 1972”) includes a power for “designated” Ministers and departments to make subordinate legislation. The instrument designates-

- the Secretary of State in relation to the re-use of public sector information;
- the Treasury in relation to consumer credit.

This instrument also revokes certain existing designations.

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

3.1 None.

4. Legislative Context

4.1 Section 2(2) ECA 1972 confers a power which may be exercised by a designated Minister or government department. A designated Minister or government department can make secondary legislation to implement European Union obligations.

Revocation of existing Order and existing designations

4.2 With this instrument certain existing designations are revoked (as referred to in Schedule 1 of this Order) where they are superseded by this Order or by previous Orders.

4.3 The designation of the Treasury in the European Communities (Designation) (No. 3) Order 2001 (S.I. 2001/3495), in relation to credit and financial institutions and the taking of the deposits other repayable funds from the public, is revoked by this instrument. However the designation of the Secretary of State in relation to the same matter in that Order has not been revoked and so still remains in place.

4.4 The European Communities (Designation) (No. 4) Order 2008 (S.I. 2008/3117) originally contained two designations. One designation was revoked by a previous

Order. The remaining designation is superseded by this Order and so S.I. 2008/3117 is revoked.

Re-use of public sector information

- 4.5 The Minister for the Cabinet Office is currently designated in respect of the re-use of public sector information by the European Communities (Designation) (No. 7) Order 2004 (S.I. 2004/3328).
- 4.6 Directive 2003/98/EC, on the re-use of public sector information was transposed into UK law by the Re-use of Public Sector Information Regulations 2005 (SI 2005/1515), which were made by the Minister for the Cabinet Office. Directive 2003/98/EC has now been amended by Directive 2013/37/EU which Member States are required to implement by 18 July 2015.
- 4.7 The Office of Public Sector Information, which was previously part of the Cabinet Office, has now merged with The National Archives. As a result of this merger, ministerial responsibility for the re-use of public sector information has been transferred to the Secretary of State for Justice. Consequently, the current designation of the Minister for the Cabinet Office in respect of the re-use of public sector information will no longer be needed, with a new one instead being needed for the Secretary of State.

Consumer Credit

- 4.8 The Secretary of State is currently designated in relation to consumer credit under Article 2 of the European Communities (Designation) (No. 4) Order 2008 (S.I. 2008/3117). Due to the transfer of policy responsibility the current designation for consumer credit is changed from the Secretary of State to the Treasury.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

Re-use of public sector information

- 7.1 As set out above, Directive 2003/98/EC was transposed into UK law by the Re-use of Public Sector Information Regulations 2005 (SI 2005/1515). As the Directive has now been amended, the UK's implementing regulations will also

need to be amended. Following the transfer of ministerial responsibility for the re-use of public sector information to the Secretary of State for Justice, it will be the Secretary of State that will make the new regulations and who will need to be designated accordingly.

Consumer Credit

7.2 The Consumer Credit Directive 2008/48/EC is currently being reviewed by the Commission. Should amendments to that Directive be proposed, following the transfer of policy responsibility for consumer credit to the Treasury, it will be the Treasury that will implement the amendments and will need to be designated accordingly.

8. Consultation outcome

8.1 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

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

10. Impact

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

11. Regulating small business

11.1 The Order does not apply to small businesses.

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 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

13.1 Les Saunders at the Cabinet Office European and Global Issues Secretariat. (Tel: 020 7276 0190 or email: les.saunders@cabinet-office.gsi.gov.uk) can answer any queries regarding the instrument.

Cabinet Office, EGIS, 27 May 2014