

EXPLANATORY MEMORANDUM TO

THE SUB-NATIONAL TRANSPORT BODY (TRANSPORT FOR THE NORTH) REGULATIONS 2018

2018 No. 103

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument establishes Transport for the North (TfN) as a Sub-national Transport Body (STB) and sets out the functions it will exercise in relation to a transport strategy and delivery in the North of England. The regulations are introduced under Part 5A of the Local Transport Act 2008 (“the 2008 Act”) as inserted by section 21 of the Cities and Local Government Devolution Act 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 STBs are a new form of transport body and TfN will be the first to be established under Part 5A of the 2008 Act.
- 3.2 In accordance with section 102T(3) of the 2008 Act, at the same time as laying the statutory instrument, the Secretary of State is required to lay before Parliament a report explaining the effect of the regulations and why it is appropriate to make the regulations.

Other matters of interest to the House of Commons

- 3.3 This instrument is subject to affirmative resolution procedure.
- 3.4 This entire instrument applies only to England (outside Greater London) as it is entirely concerned with local government in England. The instrument does not give rise to minor or consequential effects outside England.
- 3.5 It is the view of the Department that, for the purposes of House of Commons Standing Order 83P, the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter or the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament or the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.

4. Legislative Context

- 4.1 Section 102E(1) of the 2008 Act, empowers the Secretary of State to establish a STB if, under section 102F(1) the Secretary of State considers that its establishment would facilitate the development and implementation of transport strategies for the area, and the objective of economic growth in the area would be furthered by the development and implementation of such strategies. This instrument is the first use of these powers and gives effect to government commitments to establish Transport for the North as a STB.
- 4.2 We expect more areas to come forward with proposals for STB status. They are likely to come, in the first instance from Midlands Connect and England's Economic Heartland (Oxford to Cambridge arc). None of these instruments are likely to be laid in Parliament before 2020.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

6. European Convention on Human Rights

- 6.1 Jesse Norman MP, Parliamentary Under Secretary of State for the Department for Transport, has made the following statement regarding Human Rights:
- 'In my view the provisions of the Sub-national Transport Body (Transport for the North) Regulations 2018 are compatible with the convention'.

7. Policy background

What is being done and why

- 7.1 This section is covered in more detail in the accompanying Report to Parliament in accordance with the section 102T(3) of the Local Transport Act 2008.
- 7.2 This instrument establishing TfN as a statutory body reflects the previous and current government's policy of 'rebalancing the economy' by driving economic growth in the North and elsewhere in England to balance out the economic dominance of London. This became known as the 'Northern Powerhouse' initiative. A number of reports in 2014-15 supported the idea of a body which would allow the North of England to "speak with one voice" on transport issues in their area and boost growth¹. The economic potential of the North, if transformed to catch up with and then surpass the UK average long term rate of economic growth, has been estimated by TfN to be worth an additional Gross Value Added of £97 billion per year and an extra 850,000 jobs by 2050².
- 7.3 Transport for the North was created in October 2014 as a partnership of northern authorities and Local Enterprise Partnerships to formalise cooperation on transport

¹ e.g. David Higgins, Rebalancing Britain, October 2014; and IPPR, Transport for the North: A blueprint for devolving and integrating transport powers in England, March 2015

² The Northern Powerhouse Independent Economic Review

issues in the North. It will comprise 19 Constituent Authorities (6 Combined Authorities, 3 County Councils and 10 Unitary Authorities)³.

- 7.4 In March 2015 the government and TfN published the first Northern Transport Strategy⁴, setting out a long term strategy to “connect the north, create a single economy and allow northern towns and cities to pool their strengths”. It included the introduction of new road and fast rail links to connect northern cities, and integrated ticketing across the whole region.
- 7.5 The North needs a statutory body with permanence and solidity to operate effectively, with authority to recruit staff and enter into contracts, giving stakeholders and staff confidence in TfN. But more importantly, it demonstrates to the North the government’s permanent and long-term commitment to TfN’s role in strategic transport planning.
- 7.6 The provisions in Part 5A of the 2008 Act enable the Secretary of State to create STBs, of which Transport for the North will be the first. The functions and powers set out in this instrument have been agreed by ministers following a formal proposal from the members of TfN. Their key functions are to develop a transport strategy for the North, advise the Secretary of State on transport in the North and coordinate regional transport programmes such as smart ticketing, co-manage the rail franchises in the North and the planned major road network. TfN have been granted a number of local authority powers to be exercised concurrently with their constituent members to take forward the regional coordination role.
- 7.7 TfN, and other STBs, will operate at a sub-national level above local and combined authorities, filling the gap that exists between planning for local transport projects and the largest scale national transport schemes. They will leverage regional and local knowledge to plan and prioritise transport interventions aimed at yielding an economic boost. Their role as a ‘bridge’ between local and national government will provide people with a greater say on transport in their area and greater input into national level decisions because they are collectively speaking with ‘one voice’.

8. Consultation outcome

- 8.1 In accordance with the primary legislation for establishing a STB, the constituent authorities of TfN undertook a period of consultation with their constituent members, the Association of Rail North Authorities (including six Midlands authorities who are members of Rail North Limited through the geographic coverage of the north’s rail franchises); 11 Local Enterprise Partnerships in the north; the five adjoining authorities on TfN’s border and the national and cross-border bodies Transport Focus, Transport Scotland and the Welsh Government.
- 8.2 The consultation was conducted between March and September 2016 and was based on the proposed functions, powers and constitutional arrangements of TfN. TfN’s 19 constituent local authorities consented to the submission in October 2016 to the Secretary of State of their proposal to form the first STB.

³ Blackburn with Darwen BC, Blackpool BC, Cheshire East, City of York, Cumbria CC, North East CA, East Riding of Yorkshire, Greater Manchester CA, Kingston Upon Hull, Lancashire CC, Liverpool City Region CA, North East Lincolnshire BC, North Lincolnshire BC, North Yorkshire CC, Sheffield City Region CA, Tees Valley CA, Warrington BC, West Yorkshire CA.

⁴ <https://www.gov.uk/government/publications/northern-transport-strategy>

- 8.3 In accordance with the requirements of section 102F (5) of the Local Transport Act 2008, the Secretary of State, having reviewed TfN's proposal (including letters of consent), is of the view that the appropriate consultation has taken place and that no further work is necessary.
- 8.4 The outcome of the consultation was strongly in favour of establishing TfN as a STB. There was widespread support for a body that could present a clear and unified voice to government on strategic transport investment needs for the north, linked to credible analysis of economic growth. Respondents wanted TfN to be granted transport powers of central government, not through any loss of powers, responsibilities and funding from local government.
- 8.5 A key theme throughout the consultation responses was protection for authorities from any loss of funding. TfN members agreed that contributions to running costs for TfN would need unanimous support and that funding for TfN should not come from current local authority budgets or enable TfN to draw down statutory contributions from its members.
- 8.6 The Government took into account the views expressed in this consultation as part of the consideration of TfN's formal proposal for STB status. The Secretary of State met with members of TfN in March 2017 to communicate his decision to accept TfN's proposal and outline their role. This was followed up with a formal letter to the Chair of TfN explaining the rationale behind the decision.

9. Guidance

- 9.1 The government will work with TfN to support the implementation of its work programme and a Partnership Agreement with the Secretary of State will be put in place by the time TfN becomes a STB 1st April 2018).

10. Impact

- 10.1 The government does not foresee any direct negative impact on business, charities or voluntary bodies because the role of a STB (setting strategic directions for the area, spending public funds including the giving of grants, and the promoting of economic growth) is not considered to contain any regulatory functions. However, all sections of society in the North should, in time, benefit from the better transport services that TfN will work with other stakeholders to deliver.
- 10.2 The impact on the public sector of establishing TfN as a STB will be better coordination of strategic transport planning in the north. This will be achieved through more strategic and long-term decision-making on transport in the North by government, alongside TfN, resulting in better outcomes for passengers and businesses and improved economic output from the region. There will be a relatively small running cost up to 2020 for central government as an ongoing requirement to fund the operations of TfN. Funding decisions beyond this period will be determined by the government of the day.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 A Partnership Agreement will govern the relationship between TfN and the Secretary of State when TfN is established as a statutory body on 1st April 2018. This agreement will set out procedures, governance and evaluation measures with which the Department for Transport will be able to monitor TfN.

13. Contact

- 13.1 Chris Olsen at the Department for Transport, telephone: 0207-944-3497 or email: Chris.Olsen@dft.gsi.gov.uk can answer any queries regarding the instrument.