

## EXPLANATORY MEMORANDUM TO

### THE NATIONAL COLLEGE FOR ADVANCED TRANSPORT AND INFRASTRUCTURE (DESIGNATED INSTITUTION IN FURTHER EDUCATION AND REVOCATIONS) (REVOCATION) ORDER 2023

2023 No. 1057

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

#### 2. Purpose of the instrument

- 2.1 This Order removes the National College for Advanced Transport and Infrastructure (“NCATI”) as a designated institution for the purposes of section 28 of the Further and Higher Education Act 1992 (“the 1992 Act”). This means it will no longer fall within the statutory further education sector (see section 91(3) of the 1992 Act), it will no longer be subject to public sector control and will not be under the regulatory control of the Secretary of State.
- 2.2 The owner of NCATI, the University of Birmingham, has requested that NCATI’s designation is revoked because it is due to close on 24 October 2023. As a designated institution it would be required to seek a court order so that it could pass a resolution for a voluntary members’ winding up. By de-designating NCATI, it can proceed to a solvent closure more easily, and court time will also be saved.

#### 3. Matters of special interest to Parliament

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

- 3.1 None.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, in line with the original Order which designated NCATI (the National College for Advanced Transport and Infrastructure (Designated Institution in Further Education and Revocations) Order 2021).

#### 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 Section 28 of the 1992 Act gives the Secretary of State the power to designate, by means of an Order, an educational institution providing further education for the purposes of that section, bringing the institution within the further education sector, as defined by section 91(3) of the 1992 Act.

- 6.2 In 2021, the Secretary of State exercised powers conferred by the 1992 Act to make the National College for Advanced Transport and Infrastructure (Designated Institutions in Further Education and Revocations) Order 2021 (“the 2021 Order”) to designate NCATI, bringing it into the further education sector.

## **7. Policy background**

- 7.1 NCATI is a wholly owned subsidiary of the University of Birmingham (UoB). NCATI was originally called the National College for High-Speed Rail and was set up by the then Department for Business Innovation and Skills in 2017. The UoB successfully bid to take over the college as part of a Further Education Commissioner led Structure and Prospects Appraisal in 2020 following the original inability of the college to generate enough income to meet its operating costs. Prior to UoB’s takeover, the college was renamed the National College for Advanced Transport and Infrastructure to diversify away from a purely rail curriculum. The former college’s designation and government regulations were revoked by the 2021 Order and a new designation was made for NCATI. Despite further significant investment by the UoB, NCATI continued to operate a deficit and remained financially unviable.
- 7.2 NCATI and UoB conducted a public consultation from 13 February 2023 to 30 March 2023 about the future of NCATI to find a viable alternative to closure. No realistic alternative was found. As a consequence, UoB, as the owner of NCATI, made the decision to close NCATI due to ongoing operating deficits that resulted in an unsustainable financial position.
- 7.3 All of NCATI’s 16-19 students have already been transferred to alternative institutions/providers. A single apprentice was undertaking their final end point assessment but will complete their courses on or before 30 September 2023, after which NCATI will cease all operations and formally close on 24 October 2023. Public funding of NCATI ceased on 31 July 2023. Only end point assessment payments remain to be made once final data is submitted and is subject to the learners achieving the apprenticeship.
- 7.4 As a designated institution NCATI would need to seek a court order so that it can pass a resolution for a voluntary members’ winding up. By de-designating NCATI, it can proceed to a solvent closure more easily, and court time will be saved. NCATI will therefore be de-designated by revoking the 2021 Order which designated it. The 2021 Order itself revoked the National College for High-Speed Rail (Incorporation) Order 2015 (S.I. 2015/1457) and the National College for High-Speed Rail (Government) Regulations 2015 (S.I. 2015/1458). Those revocations will be unaffected, by virtue of sections 15 and 23 of the Interpretation Act 1978.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 None.

## **10. Consultation outcome**

- 10.1 NCATI and the UoB conducted a public consultation to try and find a viable future model for the college other than closure. The consultation ended 30 March 2023 and

no viable alternative model was found. NCATI has since been working with the Department for Education to facilitate a solvent wind up.

- 10.2 The published outcome of the consultation can be found at the following link: <https://www.ncati.ac.uk/ncati-consultation-outcome/>.

## **11. Guidance**

- 11.1 The Order relates principally to NCATI and does not therefore require guidance to be published as to the effect of this instrument.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it relates principally to NCATI.

## **13. Regulating small business**

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

## **14. Monitoring & review**

- 14.1 The changes which will be implemented through this Statutory Instrument are not subject to formal review.

## **15. Contact**

- 15.1 Dan Baker at the Department for Education email: [Daniel.baker@education.gov.uk](mailto:Daniel.baker@education.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Michael Nicol, Deputy Director for Post-16 Regions and FE Provider Oversight Directorate at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Robert Halfon, Minister for Skills, Apprenticeships and Higher Education and the Department for Education can confirm that this Explanatory Memorandum meets the required standard.