



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Regulation (EC) No 1370/2007 (Public Service Obligations In Transport) (Amendment) (EU Exit) Regulations 2020**

**DATE**            **12 May 2020**

**BY**                **Rebecca Evans AS, Minister for Finance and Trefnydd**

**The Regulation (EC) No 1370/2007 (Public Service Obligations In Transport) (Amendment) (EU Exit) Regulations 2020**

**The Law which is being amended:**

Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road.

**Any impact the SI may have on the Welsh Parliament's legislative competence and/or the Welsh Ministers' executive competence**

Regulation 1370/2007 is a directly applicable EU Regulation that sets out the conditions under which "competent authorities" may award Public Service Obligation (PSO) contracts to bus operators and to train operating companies (TOCs) outside the general procurement and state aid rules applicable under EU and domestic law.

Bus services and financial assistance made in connection with Regulation 1370/2007 in respect of road transport are not reserved matters under Schedule 7A to GoWA 2006 and therefore the Welsh Parliament has legislative competence in respect of these areas.

**The purpose of the amendments**

Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road (“Regulation 1370/2007”) contains a number of provisions which would be deficient when the Regulation becomes retained EU law.

The purpose of these amendments is to correct these deficiencies.

The SI and accompanying Explanatory Memorandum, setting out the effect of the SI, are available here:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-regulation-ec-no-1370-2007-public-service-obligations-in-transport-amendment-eu-exit-regulations-2020>

### **Matters of special interest to the Legislation, Justice and Constitution Committee**

This instrument is an amended version of a draft instrument, with the same title, previously considered by the CLAC and the Assembly, and for which a written statement was laid on 14 March 2019 (WS-30C(5)125)

<http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?IId=24724&EVT=113>

That draft instrument was approved to be made as a negative instrument by the Sifting Committees on 28 January 2019 but was not finally ‘made’ into law as it contained cross-references to another instrument dealing with state aid that was not subsequently taken forward, making those cross-references deficient.

This instrument differs from the version laid for sifting on 28 January 2019 in two respects.

1. It no longer deals with the references to state aid which appear in Regulation 1370/2007. Any deficiencies in these cross-references will now be dealt with separately.
2. It no longer includes a specific saving provision for Article 5. This saving provision was required at the time of sifting because Article 5, unlike the rest of the Regulation, did not technically apply until 3rd December 2019, after the then anticipated date of Brexit. The saving provision was included to ensure that this provision, which is integral to the Regulation as a whole, and important for the smooth operation of rail franchising in the UK, became retained EU law as the UK left the European Union alongside the rest of the Regulation.

We recognise the need to ensure that the statute book is operable on exit day, and acknowledge that the corrections to legislation underpinning the rail franchising regime established by this SI are vital to the continuation of rail services across the UK, and the provide the certainty and clarity to passengers and the rail industry as an absolute priority.

However, we consider it of similar importance to offer the same certainty and clarity to the public in respect of the state aid regime going forward. Whilst we are content with the approach taken forward by this SI as it no longer contains provisions relevant to state aid, it is nevertheless important for Welsh Ministers and the Welsh Parliament to be able to consider the State Aid provisions which have been removed when the time is right to rectify these deficiencies in the statute book. We have written to the UK Government to make this position clear.

### **Why consent was given**

As the revised SI no longer contains provisions relating to state aid, there is no policy divergence between the Welsh Government and the UK Government on the policy for the amendments and the substance of the amendments are not considered politically sensitive.

Substantial concerns remain with the approach being adopted by the UK Government in respect of the **State Aid (EU Exit) Regulations 2019**, as well as connected statutory instruments.

However, we continue to recognise the need to ensure that the statute book is operable on exit day.