

UK MINISTERS ACTING IN DEVOLVED AREAS

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

Laid in the UK Parliament: 16 March 2020

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	24 March 2020
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	21 April 2020
Date sifting period ends in UK Parliament	6 May 2020
Written statement under SO 30C:	Paper 10
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Not recommended for upgrade
Procedure	Made Negative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Commentary

These Regulations were made by the UK Government on 11 May 2020 under section 8 of the European Union (Withdrawal) Act 2018.

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.

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 (**the EU Regulation**) contains a number of provisions which would be deficient when the EU Regulation becomes retained EU law.

The purpose of these amendments is to correct these deficiencies. For example:

- reference to the EU Regulation operating “in accordance with the rules of Community law” is removed,
- “competent authority” will be defined by reference to a “public authority” rather than a “public authority of a Member State”,
- reference to amounts in Euros will change to reference to amounts in GB pounds.

Legal Advisers agree with the statement laid by the Welsh Government dated 12 May 2020 regarding the effect of these Regulations.

We note, in particular, that these Regulations do not deal with references to state aid in the EU Regulation, and that those references will be addressed separately.

We also note that a draft of these Regulations was laid before the UK Parliament for sifting on 16 March 2020, but the Welsh Government did not lay the written statement before the Senedd until 12 May 2020. Under Standing Order 30C, relevant written statements should be laid before the Senedd normally within three working days of the draft Regulations being laid before UK Parliament.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.