

UK MINISTERS ACTING IN DEVOLVED AREAS

134 - The European Grouping of Territorial Cooperation (EU Exit) Regulations 2019

Laid in the UK Parliament: 18 June 2019

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	2 July 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	2 July 2019
Date sifting period ends in UK Parliament	4 July 2019
Written statement under SO 30C:	Paper 8
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Not known
Procedure	Negative or affirmative
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 are proposed to be made by the UK Government pursuant to section 8(1) of the European Union (Withdrawal) Act 2018 and paragraph 21 of Schedule 7 to that Act.

The Statement made by the Welsh Government states that: “the purpose of the amendment is to correct deficiencies in legislation arising from the UK leaving the European Union relating to participation in European Groupings of Territorial Cooperation.

“European Groupings of Territorial Cooperation (EGTC) are legal entities, designed to facilitate and promote cross-border, transnational and interregional cooperation, and permits public authorities to participate in cooperation activities as a member of the EGTC.

“If the UK withdraws from the EU, the UK will no longer be able to participate in cooperation activities as a member state. The amendments will permit UK public authorities to become members of EGTCs as third country members.

“In the case of an application to join an EGTC by a devolved Welsh public authority, the SI contains a provision preventing the Secretary of State from approving or rejecting an application without seeking agreement from the Welsh Ministers.”

Legal Advisers make the following comments in relation to the Welsh Government’s statement dated 20 June 2019 regarding the effect of these Regulations.

The Welsh Government’s statement correctly explains the effect of the legislation. Under these Regulations, a public authority that wishes to become a member of an EGTC must make a written application to the Secretary of State for approval to do so. The statement correctly indicates that in relation to a devolved Welsh authority the Secretary of State must seek the approval of the Welsh Ministers before granting approval of the application. If the Welsh Ministers do not agree, the application must be refused. On the other hand, if the Secretary of State is minded to reject the application, even if the Welsh Ministers consider that it should be approved, the Secretary of State must reject the application.

Neither the statement made by the Welsh Ministers, nor the Explanatory Memorandum accompanying the Regulations, explains why an application by devolved Welsh authorities should be made to the Secretary of State and not to the Welsh Ministers. **Legal advisers recommend that clarification is sought on why the powers are not conferred on the Welsh Ministers.**

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.