

UK MINISTERS ACTING IN DEVOLVED AREAS

125 - The Regulation (EC) No 1370/2007 (Public Service Obligations In Transport) (Amendment) (EU Exit) Regulations 2019

Laid in the UK Parliament: 28 January 2019

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	12 February 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	w/c 11 February 2019
Date sifting period ends in UK Parliament	18 February 2019
Written statement under SO 30C:	Paper 40
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 under sections 8(1) and 23(6) of, and paragraphs 21 and 23(3) and (5) of Schedule 7 to, the European Union (Withdrawal) Act 2018.

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 following the United Kingdom's departure from the European Union.

The purpose of these amendments is to correct these deficiencies. The instrument also includes transitional provisions and savings provisions to ensure the legislation operates effectively after exit day.

Given the Welsh Government and the UK Government have different views as to whether State aid and, consequently, Public Service Obligations in Transport, are devolved, Members may wish to consider writing to the Secondary Legislation Scrutiny Committee of the House of Lords to make observations.

Legal Advisers agree with the statement laid by the Welsh Government dated 14 March 2019 regarding the effect of these Regulations.

It is also worth noting how helpful the Counsel General's letter to the Committee dated 8 March 2019 has been in setting out the particularly complex status of Public Service Obligations legislation.

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 draw the Committee's attention to the following issues in relation to paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks:

Public Services Obligations legislation links very closely to State aid legislation. As the Committee is aware, there have been recent disagreements between the Welsh Government and the UK Government as to whether State aid is devolved. Given that Public Services Obligations legislation links so closely with State aid, it is no surprise that similar disagreement arises in respect of these Regulations.

We note the Welsh Government has nevertheless consented to the UK Government making these Regulations, taking a pragmatic approach to ensure that the law and rail services operate effectively on exit, with discussions continuing around developing a Memorandum of Understanding in this area of law.