

2019 No.

EXITING THE EUROPEAN UNION

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

Sift requirements satisfied ***
Made - - - - - ***
Laid before Parliament ***
Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the European Grouping of Territorial Cooperation (EU Exit) Regulations 2019 and come into force on exit day.

Interpretation

2. In these Regulations—

“company” has the meaning given by section 1(1) of the Companies Act 2006(b);

“convention”, in relation to an EGTC, means the convention governing that EGTC in accordance with Article 8 of the EGTC Regulation;

“devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006(c);

“EGTC” means a European Grouping of Territorial Cooperation established under Article 4 of the EGTC Regulation;

(a) 2018 c. 16.

(b) 2006 c. 46.

(c) 2006 c. 32. Section 157A was inserted by section 4 of the Wales Act 2017 (c. 4).

“the EGTC Regulation” means Regulation (EC) No 1082/2006 of the European Parliament and of the Council on a European grouping of territorial cooperation (EGTC)(a) as it applies in the European Union, as amended from time to time;

“public authority” means a person certain of whose functions are functions of a public nature;

“Scottish Ministers” has the meaning given by section 44(2) of the Scotland Act 1998(b);

“Scottish public authority” has the meaning given by section 126(1) of the Scotland Act 1998(c);

“statutes”, in relation to an EGTC, are the documents adopted on the basis of, and in accordance with, the EGTC’s convention, in accordance with Article 9 of the EGTC Regulation; and

“Welsh Ministers” has the meaning given by section 45(2) of the Government of Wales Act 2006(d).

PART 2

Public authorities: ability to be members of EGTCs

Eligibility of public authority to become a member of an EGTC

3.—(1) A public authority is eligible to become a member of an EGTC if it falls within Article 3(1)(f) of the EGTC Regulation.

(2) A public authority which is eligible in accordance with paragraph (1) may become a member of an EGTC—

- (a) directly in its own right, or
- (b) as part of an association consisting of bodies falling within Article 3(1) of the EGTC Regulation.

(3) A public authority which by virtue of any enactment is restricted in its ability to be a member of a company will be restricted to the same extent in its ability to be a member of an EGTC.

(4) A public authority must not engage in the activities of an EGTC until—

- (a) it has made an application to become a member of an EGTC in accordance with regulation 4, and
- (b) it has received approval from the Secretary of State to become a member of that EGTC in accordance with regulation 5.

Application to Secretary of State

4.—(1) A public authority wishing to become a member of an EGTC must make a written application to the Secretary of State seeking approval to become a member, making clear whether it is applying for approval to be a member directly in its own right, or as part of an association of bodies.

(2) The public authority must provide as part of that application—

- (a) in respect of an existing EGTC, the convention and statutes of that EGTC, or
- (b) in respect of a proposed EGTC, the proposed convention and statutes of that EGTC.

(a) OJ No L 210, 31.7.2006, p.19; amended by Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17th December 2013 OJ No L 347, 20.12.2013, p.303.

(b) 1998 c. 46. Section 44 was amended by section 12 of the Scotland Act 2012 (2012 c. 11).

(c) There are no amendments to section 126 relevant to this instrument.

(d) Section 45 was amended by section 4(2) of the Wales Act 2014 (2014 c. 29).

(3) The public authority must notify the Secretary of State of any amendments to the convention and statutes (or proposed convention and statutes) which are made during the period when the Secretary of State is considering the application.

Secretary of State approval

5.—(1) Within six months beginning with the date of receipt of a public authority’s application under regulation 4, the Secretary of State may—

- (a) request additional information on the application, and
- (b) approve or reject the application, in writing.

(2) Except in the case of an application made by a devolved Welsh authority or a Scottish public authority, if the Secretary of State does not approve or reject the public authority’s application within the six-month period mentioned in paragraph (1), the application is deemed to be approved.

Application by a devolved authority

6.—(1) If an application under regulation 4 is made by a devolved authority, the Secretary of State must not approve or reject the application without first seeking agreement from the relevant Ministers, and the procedure for determining such an application is—

- (a) within two weeks beginning with the date of receipt of the application, the Secretary of State must notify the relevant Ministers in writing of the application, and provide to them all the details of the application made and copies of any documents accompanying the application;
- (b) within the six-month period mentioned in regulation 5(1), the relevant Ministers may ask that the Secretary of State request particular additional information on the application;
- (c) within three months beginning with the date of receipt of the application by the Secretary of State—
 - (i) the Secretary of State must inform the relevant Ministers in writing as to whether the Secretary of State is minded to approve or reject the application; and
 - (ii) the relevant Ministers must inform the Secretary of State in writing as to whether they consider that the application should be approved or rejected;
- (d) if there is no agreement as to the outcome of the application between the Secretary of State and the relevant Ministers by the end of the three-month period mentioned in subparagraph (c), the Secretary of State and the relevant Ministers must endeavour to come to an agreement within the remainder of the six-month period mentioned in regulation 5(1);
- (e) where the relevant Ministers do not agree with the Secretary of State’s decision, the Secretary of State must reject the application; and
- (f) if the Secretary of State does not approve the application within the six-month period mentioned in regulation 5(1), the application is deemed to be rejected.

(2) In this regulation—

“devolved authority” means a devolved Welsh authority or a Scottish public authority; and

“relevant Ministers” means the Welsh Ministers, in respect of an application by a devolved Welsh authority, and the Scottish Ministers, in respect of an application by a Scottish public authority.

Grounds for mandatory rejection of application

7. The Secretary of State must reject an application if the Secretary of State considers that—

- (a) the public authority’s membership or the convention is not in conformity with—
 - (i) the EGTC Regulation,
 - (ii) EU law concerning the acts and activities of the EGTC, or

- (iii) the law in the United Kingdom relating to the functions of the public authority;
- (b) such membership is not justified for reasons of public interest or of public policy of the United Kingdom; or
- (c) the statutes are inconsistent with the convention.

Extension of six-month decision period

8.—(1) The six-month period mentioned in regulation 5(1) is extended—

- (a) if the Secretary of State requests additional information from the public authority, by a period equal to that beginning with the day on which the Secretary of State sent the request for that information and ending with the day on which the Secretary of State receives the information;
- (b) if the Secretary of State is notified under regulation 4(3) of amendments to the convention and statutes during the period mentioned in regulation 5(1) (including any extension to that period under sub-paragraph (a)), by such period, if any, as is necessary such that the Secretary of State has one month to consider those amendments, beginning with the day on which the Secretary of State receives notification of the amendments.

(2) Despite paragraph (1)(a), the six-month period mentioned in regulation 5(1) is not extended if the Secretary of State requests additional information from the public authority and receives that information within a period of ten working days beginning with the day on which the Secretary of State sent the request if that was a working day, or, if not, beginning with the first working day after that day.

(3) In this regulation—

“working day” means a day other than—

- (a) a Saturday,
- (b) a Sunday,
- (c) Christmas Day,
- (d) Good Friday, or
- (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971^(a) in the part of the United Kingdom in which the application under regulation 4 is made.

Reasons for rejection

9. If the Secretary of State rejects a public authority’s application to become a member of an EGTC, the Secretary of State must give reasons for the rejection, which must—

- (a) in the case of an application made by a devolved Welsh authority, include any reasons given by the Welsh Ministers;
- (b) in the case of an application made by a Scottish public authority, include any reasons given by the Scottish Ministers.

In cases of application for accession

10. If a public authority has applied to become a member of an existing EGTC by accession, and the Secretary of State has previously approved the convention for that EGTC as part of an application for membership by a different public authority, the Secretary of State must send notice of that decision to the member State where the EGTC has its registered office.

(a) 1971 c. 80; there is a relevant amendment made by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007, 2007 asp 2.

Legal personality

11. EGTCs have legal personality in the United Kingdom.

Amendments to the convention or the statutes of an EGTC which has a UK member

12. A public authority which is a member of an EGTC, whether directly in its own right or as part of an association, must notify the Secretary of State of any amendments to the convention or statutes of the EGTC within a period of one month, beginning with the day on which the amendment takes effect.

Secretary of State's power to prohibit EGTC activity

- 13.—(1) This regulation applies where an EGTC carries out any activity which contravenes—
- (a) any enactment or rule of law providing for public policy, public security, public health or public morality, or
 - (b) the public interest of the United Kingdom.
- (2) Where this regulation applies, the Secretary of State may—
- (a) prohibit any activity carried on by that EGTC in the United Kingdom, or
 - (b) order any public authorities which are members of that EGTC to withdraw and cease to be members of it,

provided that the Secretary of State's prohibition under sub-paragraph (a) or order under sub-paragraph (b) does not constitute a means of arbitrary or disguised restriction on territorial cooperation between the EGTC's members.

(3) In this regulation, "a means of arbitrary or disguised restriction on territorial cooperation between the EGTC's members" has the same meaning as in Article 13 of the EGTC Regulation.

Transitional provision

14.—(1) An application made by a public authority for membership of an EGTC under the European Grouping of Territorial Cooperation Regulations 2015(a) but not approved or rejected before exit day, is to be treated as if it were an application for membership made under these Regulations.

(2) Where such an application was made by a Scottish public authority or a devolved Welsh authority, the application is to be treated as if it were made by a public authority which is not a Scottish public authority or a devolved Welsh authority.

PART 3

REVOCATIONS

Revocations

15. The instruments specified in the Schedule are revoked to the extent shown in that Schedule.

Name
Minister for Small Business, Consumers and Corporate Responsibility

Date Department for Business, Energy and Industrial Strategy

(a) S.I. 2015/1493.

SCHEDULE Revocations

Regulation 15

<i>Instrument</i>	<i>Reference</i>	<i>Extent of revocation</i>
Regulation (EC) No 1082/2006 of the European Parliament and of the Council on a European grouping of territorial cooperation (EGTC), as it applies in the United Kingdom		The whole Regulation
Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings, as it applies in the United Kingdom		The whole Regulation
The European Grouping of Territorial Cooperation Regulations 2007(a)	S.I. 2007/1949	Parts 2 and 3 of the Schedule
The Companies Act 2006 (Consequential Amendments etc) Order 2008(b)	S.I. 2008/948	Paragraph 36 of Schedule 1
The European Grouping of Territorial Cooperation Regulations 2015	S.I. 2015/1493	The whole Regulations
The Insolvency (England and Wales) Rules 2016 (Consequential Amendments and Savings) Rules 2017	S.I. 2017/369	The last entry in the table in paragraph 1 of Schedule 2
The Insolvency (England and Wales) and Insolvency (Scotland) (Miscellaneous and Consequential Amendments) Rules 2017(c)	S.I. 2017/1115	Regulations 31 and 32

- (a) S.I. 2007/1949, partially revoked by S.I. 2015/1493 and amended by S.I. 2017/1115.
 (b) S.I. 2008/948, to which there are amendments but none is relevant to this instrument.
 (c) S.I. 2017/1115.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular arising under paragraphs (a), (b), (d) and (g) of section 8(2) of the Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations enable public authorities in the United Kingdom to become members of European Groupings of Territorial Cooperation (EGTCs) after the United Kingdom has left the European Union.

EGTCs were introduced in the European Union by EC Regulation 1082/2006 of 5th July 2006 on a European grouping of territorial cooperation (EGTC) (OJ No L 210, 31.7.2006, p.19) to enable member States, national, regional and local authorities from different member States, and third countries and overseas territories, to cooperate more effectively.

These Regulations are necessary because of the change in the United Kingdom's status after leaving the European Union, changing from being a member State to being a third country. Part 2 of the Regulations sets out the process for UK public authorities to make applications to become members of EGTCs as third country members, subject to approval from the Secretary of State. Applications from devolved Welsh authorities and Scottish public authorities also require the agreement of the Welsh Ministers and Scottish Ministers respectively.

Regulation 11 gives legal personality to EGTCs in the United Kingdom.

Regulation 15 and the Schedule revoke previous domestic and EU law concerning the ability of UK public authorities to become members of EGTCs prior to the UK's withdrawal from the European Union.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.