

2020 No. 0000

EXITING THE EUROPEAN UNION

TRANSPORT

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

<i>Sift requirements satisfied</i>	2020
<i>Made</i> - - - -	2020
<i>Laid before Parliament</i>	2020
<i>Coming into force in accordance with regulation 1(2)</i>	

The Secretary of State makes these 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.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Regulation (EC) No 1370/2007 (Public Service Obligations in Transport) (Amendment) (EU Exit) Regulations 2020.

(2) These Regulations come into force on IP completion day.

(3) These Regulations do not extend to Northern Ireland.

Amendment of Regulation (EC) No 1370/2007

2. 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 and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 is amended as follows.

3. In Article 1 (purpose and scope)—

(a) in the first subparagraph of paragraph 1 omit “, in accordance with the rules of Community law,”.

(b) in paragraph 2—

(i) in the first subparagraph omit the second sentence;

(a) 2018 c.16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c.1) (the “2020 Act”). “IP completion day” is defined in section 1A(6) of the European Union (Withdrawal) Act 2018, inserted by section 1 of the 2020 Act.

- (ii) in the second subparagraph for “of the Member States on whose territory” substitute “in whose geographical area”;
- (c) for paragraph 3 substitute—

“3. This Regulation shall not apply to “works concession contracts” as defined for England and Wales in regulation 3(2) of the Concession Contracts Regulations 2016(a), and for Scotland in regulation 3(2) of the Concession Contracts (Scotland) Regulations 2016(b).”.

4. In Article 2 (definitions)—

- (a) in paragraph (b), in the definition of “competent authority”, omit “of a Member State or Member States”;
- (b) in paragraph (i), in the definition of “public service contract”, omit “depending on the law of the Member State.”.

5. In Article 2a (specification of public service obligations), in paragraph (1)—

- (a) in the second subparagraph omit “, in accordance with Union law”;
- (b) in the third subparagraph omit “in the Member States”;
- (c) omit the fourth subparagraph.

6. In Article 3 (public service contracts and general rules) omit paragraph 3.

7. In Article 4 (mandatory content of public service contracts and general rules)—

- (a) in paragraph 4, in the third subparagraph, omit the second sentence;
- (b) in paragraph 4a, for “Union law, national law”, substitute “any enactment, rule of law”;
- (c) for paragraph 4b substitute—

“4b. The Transfer of Undertakings (Protection of Employment) Regulations 2006(c) shall apply to a change of public service operator where such a change constitutes a relevant transfer within the meaning of regulation 2(1) of those Regulations.”;

- (d) in paragraph 5—
 - (i) for “Without prejudice to national and Community law, including collective agreements” substitute “Without prejudice to any enactment, rule of law or collective agreements”;
 - (ii) for “transfer within the meaning of Directive 2001/23/EC” substitute “relevant transfer as defined in regulation 2(1) of the Transfer of Undertakings (Protection of Employment) Regulations 2006”;
- (e) in paragraph 6 omit “, in accordance with national law,” and for “While respecting Directive 2001/23/EC” substitute “While respecting the requirements of the Transfer of Undertakings (Protection of Employment) Regulations 2006”;
- (f) in paragraph 7 omit “, in accordance with national and Community law.”.

8. In Article 5 (award of public service contracts)—

- (a) for paragraph 1 substitute—

“1. Public service contracts shall be awarded in accordance with the rules laid down in this Regulation. However, service contracts as defined in the relevant utilities contracts regulations and public service contracts as defined in the relevant public contracts regulations for public passenger transport services by bus or tram shall be awarded in accordance with the procedures provided for under those Regulations where such contracts

(a) S.I. 2016/273, amended by S.I. 2019/560, 2019/623.

(b) S.S.I. 2016/65, amended by S.S.I. 2016/125, 2019/112.

(c) S.I. 2006/246, amended by S.R. 2006/177, S.I. 2009/592, 2010/93, 2014/16, 2014/386, 2014/853.

do not take the form of services concession contracts. Where such service contracts or public service contracts are to be awarded in accordance with those Regulations, the provisions of paragraphs 2 to 6 of this Article shall not apply.

For the purposes of this paragraph:

- the relevant utilities contracts regulations for England and Wales are the Utilities Contracts Regulations 2016(a) and for Scotland are the Utilities Contracts (Scotland) Regulations 2016(b);
 - the relevant public contracts regulations for England and Wales are the Public Contracts Regulations 2015(c) and for Scotland are the Public Contracts (Scotland) Regulations 2015(d); and
 - a “services concession contract” is as defined:
 - for England and Wales, in regulation 2(1) of the Concession Contracts Regulations 2016;
 - for Scotland, in regulation 2(1) of the Concession Contracts (Scotland) Regulations 2016.”;
- (b) in paragraph 2—
- (i) in the first subparagraph for “Unless prohibited by national law” substitute “Unless prohibited by any enactment or rule of law”;
 - (ii) in the third subparagraph, in point (a) omit “In accordance with Community law,”;
- (c) in paragraph 3a—
- (i) in the first subparagraph for “Unless prohibited by national law” substitute “Unless prohibited by any enactment or rule of law”;
 - (ii) in the second subparagraph omit “and shall inform the Commission thereof without undue delay”;
- (d) in paragraph 3b, in the second subparagraph for “in the *Official Journal of the European Union*” substitute “in such form and manner as they consider appropriate”;
- (e) in paragraph 4—
- (i) in the first subparagraph for “Unless prohibited by national law” substitute “Unless prohibited by any enactment or rule of law”, and in point (a) for “EUR 1 000 000” substitute “£875,000” and for “EUR 7 500 000” substitute “£6,500,000”;
 - (ii) in the second subparagraph for “EUR 2 000 000” substitute “£1,750,000”;
- (f) in paragraph 4a—
- (i) in the first subparagraph for “Unless prohibited by national law” substitute “Unless prohibited by any enactment or rule of law”;
 - (ii) in the second subparagraph omit “and shall inform the Commission thereof within one month of its publication”;
 - (iii) omit the third subparagraph;
- (g) in paragraph 4b, in the first subparagraph for “Unless prohibited by national law” substitute “Unless prohibited by any enactment or rule of law” and for the words from “is excluded” to the end substitute “comprises a network of the kind referred to in

(a) S.I. 2016/274, amended by S.I. 2016/696, 2019/489, 2019/560, 2019/623, 2019/624. See regulation 2(1) for the definition of a “service contract”.

(b) S.S.I. 2016/49, amended by S.I. 2016/696, S.S.I. 2019/7, 2019/112, 2019/114, 2019/173. See regulation 2(1) for the definition of a “service contract”.

(c) S.I. 2015/102, amended by S.I. 2015/1472, 2016/274, 2016/274, 2016/275, 2016/696, 2019/489, 2019/560, 2019/623, 2019/624. See regulation 2(1) for the definition of “public service contracts”.

(d) S.S.I. 2015/446, amended by S.I. 2016/696, 2017/1011, S.S.I. 2016/47, 2016/338, 2019/112, 2019/114. See regulation 2(1) for the definition of “public service contract”.

regulation 4(7)(a) or (b) of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016”(a);

(h) in paragraph 6 for “Unless prohibited by national law” substitute “Unless prohibited by any enactment or rule of law”.

9. In Article 5a (rail rolling stock), in paragraph 2 omit “in accordance with national law and”.

10. In Article 6 (public service compensation) omit paragraph 2.

11. In Article 7 (publication)—

(a) in paragraph 1 omit “in the Member State concerned” and omit the final sentence;

(b) in paragraph 2, for “in the *Official Journal of the European Union*” substitute “on its website”.

12. In Article 8 (transition)—

(a) for paragraph 1, substitute—

“1. Public service contracts shall be awarded in accordance with the rules laid down in this Regulation. However, service contracts as defined in the relevant utilities contracts regulations and public service contracts as defined in the relevant public contracts regulations for public passenger transport services by bus or tram shall be awarded in accordance with the procedures provided for under those Regulations where such contracts do not take the form of services concession contracts. Where such service contracts or public service contracts are to be awarded in accordance with those Regulations, the provisions of paragraphs 2 to 4 of this Article shall not apply.

For the purposes of this paragraph:

— the relevant utilities contracts regulations for England and Wales are the Utilities Contracts Regulations 2016 and for Scotland are the Utilities Contracts (Scotland) Regulations 2016;

— the relevant public contracts regulations for England and Wales are the Public Contracts Regulations 2015 and for Scotland are the Public Contracts (Scotland) Regulations 2015; and

— a “services concession contract” is as defined:

- for England and Wales, in regulation 2(1) of the Concession Contracts Regulations 2016;
- for Scotland, in regulation 2(1) of the Concession Contracts (Scotland) Regulations 2016.”;

(b) in paragraph 2 omit the fourth subparagraph;

(c) in paragraph 3, in the third subparagraph omit “and provided that the Commission has given its prior approval”;

(d) in paragraph 4 omit the third subparagraph.

13. Omit Article 11 (reports).

14. In the text immediately after Article 12 (entry into force) omit “and directly applicable in all Member States”.

15. In the Annex, in paragraph 6 omit “in a given Member State”.

Transitional provision

16. Nothing in these Regulations affects the validity of the—

(a) S.I. 2016/645, to which there are amendments not relevant to these Regulations.

- (a) award of a public service contract, or
- (b) extension of a public service contract,

where an action in relation to the award or extension was taken before IP completion day in accordance with 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 and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 as it had effect in domestic law at that time.

Signed by authority of the Secretary of State

Date

Parliamentary Under Secretary of State
Department for Transport

DRAFT

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 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) (“the Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to 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, and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (“Regulation 1370/2007”) as that Regulation applies in Great Britain.

Regulations 2 to 15 make amendments to Regulation 1370/2007 which include the omission of references to Member States, and amendments to obligations of or in relation to the European Commission and amounts of money in Euros.

Regulation 16 makes transitional provision.

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

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk.