

## UK MINISTERS ACTING IN DEVOLVED AREAS

### **The Provision of Services (Amendment etc) (EU Exit) Regulations 2018** *Laid in the UK Parliament: 12 November 2018*

#### **Sifting**

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	27 November 2018
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	W/C 26 November 2018
Date sifting period ends in UK Parliament	27 November 2018
Written statement under SO 30C:	Paper 16
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. These Regulations make a series of amendments to legislation in the field of the provision of services to ensure that the law in this area continues to operate after the UK leaves the European Union. In particular, these Regulations amend the Provision of Services Regulations 2009 ("**the 2009 Regulations**"), certain domestic insolvency legislation (some relating to Northern Ireland only) and the Employment Agencies Act 1973, and revokes Commission Decision 2009/793/EC concerning the exchange of information between Member States.

The EU Services Directive (2006/123/EC) ("**the Directive**"), which is primarily implemented into UK law by the 2009 Regulations, sets out overarching principles on the regulation of service provision in the Single Market and aims to make it easier for businesses to establish and provide

services in other European Economic Area (“**EEA**”) Member States. It applies to a wide range of non-financial services.

Following the UK’s departure from the European Union in March 2019, the Directive will no longer apply to the UK or to EEA businesses or individuals providing services in the UK. These Regulations ensure that regulatory principles that apply to the provision of services continue to operate effectively after exit day.

The approach taken by these Regulations is designed to ensure that the UK regulates EEA Member State businesses in the same way that it would regulate other third country service providers. The removal of certain protections for EEA service providers will enable the UK to meet commitments under World Trade Organisation (“**WTO**”) rules; specifically, the WTO’s “most favoured nation” principle, which prevents countries from discriminating between their trading partners outside of trade agreements. The Regulations also revoke redundant information sharing obligations between the UK and EEA Member States.

Legal Advisers make the following comments in relation to the Welsh Government’s statement dated 13 November 2018 regarding the effect of these Regulations:

The statement contains a minor referencing error in referring to the EU Services Directive “(2006/723/EC)”, which should instead read “(2006/123/EC)”.

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.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations