

EXPLANATORY MEMORANDUM TO
THE COMPANIES (CROSS-BORDER MERGERS) (AMENDMENT)
REGULATIONS 2008

S.I. 2008 No. 583

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations amend the Companies (Cross-Border Mergers) Regulations 2007 (S.I.2007/2974), which implement Directive 2005/56/EC of the European Parliament and of the Council on cross-border mergers of limited liability companies, by correcting an error in regulation 19(5) of those Regulations.

3. Matters of special interest to the joint committee on statutory instruments

3.1 None.

4. Legislative background

4.1 The legislative background to the Regulations amended by these Regulations, the Companies (Cross-Border Mergers) Regulations 2007, was set out in full in the Explanatory Memorandum for those Regulations laid before Parliament in October 2007.

4.2 These Regulations correct an error in the cross references in regulation 19(5), which creates an offence of failing to comply with requirements to deliver documents. There is an incorrect reference to a provision which does not provide for such a requirement (regulation 19(2)). These Regulations substitute that incorrect reference with a correct reference to a provision which does provide for such a requirement (regulation 19(3)).

5. Territorial Extent and Application

5.1 These regulations extend to the United Kingdom.

6. European convention on human rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

The Companies (Cross-Border Mergers) Regulations 2007 provide for cross-border mergers in the European Economic Area. Regulation 19 requires UK companies who have

completed a cross-border merger to deliver specific documents to the UK Registrar of Companies. Failure to notify the UK Registrar would significantly impact its ability to execute its duties efficiently and specifically affect the registration of mergers between UK companies and companies in other Member States. This could lead to various difficulties, including the public being misled about the status of companies. The UK could also face a possible challenge by the Commission, if it was not seen to be giving effect to cross-border mergers efficiently. An offence of failing to deliver those documents is therefore created by regulation 19(5). The Companies (Cross-Border Mergers) (Amendment) Regulations 2008 correct an error in the drafting of that offence.

Commencement date

7.1 These regulations come into force on 6 April 2008. (The Companies (Cross-Border Mergers) Regulations 2007 came into force on 15 December 2007.)

8. Impact

8.1 As these regulations simply correct errors in the Companies (Cross-Border Mergers) Regulations 2007, there is no impact on the private or voluntary sectors, and an Impact Assessment is not required. A full Regulatory Impact Assessment was attached to the Explanatory Memorandum for the Companies (Cross-Border Mergers) Regulations 2007.

9. Contact

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