



STATUTORY INSTRUMENTS.

S.I. No. 138 of 2010

EUROPEAN GROUPING OF TERRITORIAL COOPERATION
REGULATIONS 2010

(Prn. A10/0479)

EUROPEAN GROUPING OF TERRITORIAL COOPERATION
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I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by Section 3 of the European Communities Act 1972 and for the purpose of giving full effect of Regulation 1082/2006 of the European Parliament and of the Council of 5th July 2006 (EGTC) hereby make the following Regulations:

PART 1

General

1. These regulations may be cited as the European Grouping of Territorial Cooperation Regulations 2010.

2. (1) In these Regulations:

“EC Regulation” means the Regulation of the European Parliament and the Council (EC) No. 1082/2006 of 5 July 2006 on a European Grouping of Territorial Cooperation (EGTC);

“the Companies Act” means the Companies (Amendment) Act 1986;

“the Insolvency Act” means the Protection of Employment (Employers’ Insolvency) Act (1984).

3. In any provision of an enactment applied to an EGTC by virtue of these Regulations:

“articles” means the statutes of an EGTC;

“Minister” means the Minister for Finance;

“board of directors” means the assembly of an EGTC and all the directors of an EGTC if more than one, and if only one, the director of an EGTC;

“company” means an EGTC;

“director” or “past director” of a company means a director or former director of an EGTC, a member or former member of an EGTC or any other person who has or has had control of the business of an EGTC;

“officer” means a director or member of the assembly of an EGTC or a member of any other organ of an EGTC provided for in its statutes;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th April, 2010.*

“registered office” means the office specified in the convention of an EGTC to be its registered office.

PART 2

Provisions relating to Articles 1 to 16 of the EC Regulation

4. The competent authority under, Article 4.4 of the EC Regulation, for the receipt of applications to establish an EGTC shall be the Minister who shall have the power to decide on any such applications in accordance with Article 4.3(3) of the EC Regulation.

5. The Minister may provide for the payment of fees to cover the costs of registration as laid down in Article 16.2 of the EC Regulation.

6. Only an organisation which conforms to the conditions laid down in Article 3 of the EC Regulation may apply.

7. In accordance with Article 5.2 of the EC Regulation the statutes of the EGTC shall be published in the *Official Journal of the European Union*. These details shall also be published in *Iris Oifigiúil*.

8. The Minister may prohibit any activities that are contrary to public policy, public security, public health or public morality in accordance with Article 13 of the EC Regulation.

9. An EGTC established under this Statutory Instrument shall provide a budget in accordance with Article 11 of the EC Regulation.

10. The EGTC shall meet its obligations in terms of Annual Budget, Annual Report and Auditing in accordance with Article 11 of and Article 2.1 of the EC Regulation having regard to relevant section of the Companies Act.

11. The members of an EGTC shall appoint auditors in accordance with the decision making procedures contained in the statutes of the EGTC.

12. The auditor must be a person who is eligible for appointment as a company auditor under the relevant section of the Companies Act.

13. An application to establish an EGTC may be refused in accordance with Article 12(2) if a member has limited liability.

14. An EGTC shall conform with the provisions of relevant sections of the Insolvency Act as laid down in Article 12 of the Regulation.

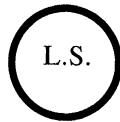
15. An EGTC shall be governed by a convention as laid down in Article 8 of the EC Regulation.

16. The organisation of an EGTC shall conform to Article 10 of the EC Regulation.

17. Where an EGTC is no longer able to carry out tasks as laid down in Article 1(2) and Article 7 of the EC Regulation an application may be made, in accordance with Article 14 of the EC Regulation, to have the EGTC dissolved. For the purposes of this Article the High Court shall be the competent authority.

18. In the event of a dispute between a third party and an EGTC or members of an EGTC, such disputes shall be dealt with in accordance with Article 15 of the EC Regulation.

19. Statutory Instrument No. 533 of 2009 is revoked.



GIVEN under my Official Seal,
8 March 2010.

BRIAN LENIHAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations make provision supplementing Regulation (EC) No. 1082/2006 of the European Parliament and of the Council on a European Grouping of Territorial Cooperation (O.J. No. L210, 31.07.2006 p.19) (“the EC Regulation”) for the effective application of the EC Regulation in Ireland.

The EC Regulation provides for the creation of a new form of body corporate, the European Grouping of Territorial Cooperation (“EGTC”) which will be governed by the Regulation. Any EGTC formed in Ireland shall also be governed by the EC Regulation.

The EC Regulation obliges each Member State to make arrangements in relation to a prospective member of an EGTC which is formed in law and in relation to an EGTC the registered office of which is in its territory. These Regulations therefore:

- (1) make provision for the establishment of an EGTC (Articles 3, 4, and 5.1 of the EC Regulation);
- (2) contain provisions about what accounting and insolvency provisions are to apply to an EGTC (Articles 2(1), 11(2) and 12 of the EC Regulation);
- (3) contain provisions needed to achieve effective application of the EC Regulation (Articles 4(4), 13 and 14(1)).

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