

EXPLANATORY MEMORANDUM TO

**THE EUROPEAN REGIONAL DEVELOPMENT FUND (LONDON
OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS
2008**

2008 No. 1342

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This statutory instrument is made for the London region for which the Greater London Authority (“GLA”) and the London Development Agency (“the Agency”) are responsible under the Greater London Authority Act 1999 and Regional Development Agencies Act 1998. The instrument designates the GLA and the Agency to carry out functions relating to the implementation and management of the development strategy for London adopted by the Commission of the European Communities on 7th December 2007.

2.2 The development strategy (known as the operational programme) sets out the activities of the European Regional Development Fund. The programme covers the period starting on 1 January 2007 and ending on 31 December 2013.

2.3 The instrument entrusts functions to the GLA and the Agency and makes provision for matters arising out of or related to the designations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None

4. Legislative Background

The Council Regulation

4.1. Council Regulation (EC) No.1083/2006 (“the Council Regulation”) lays down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (together known as the Structural Funds). This statutory instrument implements general provisions relating to the European Regional Development Fund (“the ERDF”).

4.2. In this memorandum, a reference to an Article is a reference to an Article of the Council Regulation.

4.3. The ERDF may contribute towards achieving three objectives, namely:

4.3.1. speeding up the economic convergence of the least developed Member States and regions (the Convergence objective);

4.3.2. strengthening competitiveness and employment outside the least developed areas of the Community (the Regional competitiveness and employment objective); and

4.3.3. strengthening cross-border and trans-national co-operation (the European territorial co-operation objective).

4.4. The activities of the ERDF in each Member State are set out in operational programmes adopted by the Commission. Unless the Commission agrees otherwise, an operational programme covers a single objective of the ERDF. Disregarding programmes covering the European territorial co-operation objective, the Commission has adopted for England:

4.4.1. a programme covering the Regional competitiveness and employment objective for each of the nine regions (including London) in England for which a regional development agency has statutory responsibilities; and

4.4.2. a programme covering the Convergence objective for Cornwall and the Isles of Scilly, which are part of the South West region.

4.5. Statutory instruments making provision for implementing a programme aimed at strengthening regional competitiveness and employment have been made for the other eight English regions. These are listed in the next paragraph. The instrument for the South West also covers the sub-regional programme covering the Convergence objective. These Regulations make provision for implementing the programme aimed at strengthening regional competitiveness and employment for the ninth English region, London.

4.6. The Regulations for the other eight English regions are:

- The European Regional Development Fund (West Midlands Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3618)
- The European Regional Development Fund (Yorkshire and the Humber Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3619)
- The European Regional Development Fund (South East Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3620)
- The European Regional Development Fund (North East Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3621)
- The European Regional Development Fund (North West Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3622)
- The European Regional Development Fund (South West Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3623)
- The European Regional Development Fund (East of England Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3624)
- The European Regional Development Fund (East Midlands Operational Programme) (Implementation) Regulations 2007 (S.I. 2007/3625)

4.7. The amount allocated from the ERDF 2007-2013 programmes is €3.283 billion (currently about £2.643 billion using foreign exchange rate @ 0.80500 on 29th April 2008), of which €458 million (currently about £369million) has

been allocated for the Convergence programme for Cornwall and the Isles of Scilly, and €2.825 billion (currently about £2.273billion) is for the Regional Competitiveness and Employment programmes [amounts in Euros are rounded to the nearest million].

4.8. Article 37.1 requires each programme to contain implementing provisions, which include, among other things, the designation of bodies under Article 59.

4.9. Article 59.1 obliges the Member State to designate a managing authority to manage the programme. The functions of the managing authority are specified in Article 60. The Secretary of State for Communities and Local Government is designated in the implementing provisions as the managing authority for every programme adopted by the Commission for England.

4.10. Article 59.2 authorises the Member State to designate one or more intermediate bodies to carry out some or all of the functions of the managing authority under the responsibility of that authority. The implementing provisions for the London programme provide for the designation of the GLA and Agency as intermediate bodies for the programme.

4.11. Article 58 requires the Member State to set up a management and control system. The system must define the functions of the bodies concerned in the management and control of the programme.

4.12. Article 42 authorises the managing authority to entrust the management and implementation of a part of a programme:

4.12.1. to one or more bodies (“global grant bodies”) designated by the managing authority for the purposes of that article; and

4.12.2. in accordance with the provisions of an agreement concluded between the managing authority and the body or each body designated.

4.13. Chapter 1 of Title VII of the Council Regulation (Articles 75 to 97) make provision about financial management. Articles 82 to 87 make provision about the payment of the contribution from the ERDF to a programme by way of pre-financing and interim payments.

5. Territorial application and extent

5.1. This instrument applies in relation to England only.

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

Policy

7.1. The Government's policy is that each programme shall be managed and implemented by the regional development agency for the region for which the programme has been adopted. Each agency will exercise most of the functions of the managing authority under the responsibility of that authority (the Secretary of State for Communities and Local Government).

7.2. The policy for London is slightly different, to take account of the different institutional framework for governing London. In London, the task of managing and implementing the programme is shared between the GLA and the Agency. The GLA has functions in relation to the selection of projects for funding, and other intermediate body functions are exercised by the Agency.

7.3. For this purpose, the GLA and the Agency are designated as the intermediate bodies for the London programme, and these Regulations make provision for matters arising out of or related to the designation, including:

7.3.1. the modification of the Regional Development Agencies Act 1998 ("the 1998 Act");

- 7.3.2. the modification of the Greater London Authority Act 1999 (“the GLA Act 1999”); and
- 7.3.3. the payment of the contribution from the ERDF and the certification and audit of payments.
- 7.4. The GLA is required to carry out the managing authority functions specified in section 3A of the Schedule of Managing Authority Functions published for the London ERDF programme, and the Agency is required to carry out the managing authority functions specified in section 3B of that Schedule. The GLA functions are entrusted to the Mayor, and can be delegated to the Deputy Mayor or GLA staff. The Schedule for this programme is being laid with these Regulations, and a copy will be placed in the libraries of both Houses of Parliament.
- 7.5. This instrument and the Schedule of Managing Authority functions make provision to enable the managing authority to fulfil over-arching responsibilities and ensure that the programme is managed efficiently and that funds are properly handled and accounted for.
- 7.6. The GLA and the Agency as intermediate bodies are under a duty to carry out their managing authority functions in accordance with the management and control system set up for the programme by the Secretary of State.
- 7.7. This instrument gives the managing authority power to give guidance and directions to the GLA about the exercise of managing authority functions and modifies the 1998 Act to empower the managing authority to give guidance and directions to the Agency about the exercise of managing authority functions.
- 7.8. This instrument makes provision supplementary to the designation of global grant bodies under Article 42, and provision to aid the recovery of sums paid by way of financial assistance.

7.9. This instrument requires the Secretary of State to make provision in the management and control system for handling payments from the ERDF and for the certification and audit of payments. The contribution from the ERDF is to be accounted for and expended separately from other funds handled by the Agency.

Consultation

7.10. On 28 February 2006 the Department for Trade and Industry (now Business, Enterprise and Regulatory Reform) issued a consultation paper on a draft of the United Kingdom's National Strategic Reference Framework, which would establish the priorities for the future development strategies to be carried out with the aid of the ERDF and the European Social Fund during the years 2007-2013. The collation, assessment methodology and subsequent analysis of the consultation responses was undertaken by the Department for Business, Enterprise and Regulatory Reform.

7.11. The paper invited comments on proposals for distributing the resources allocated under the Regional competitiveness and employment objective and for administering the ERDF. One administrative aim was to bring the ERDF programmes more into line with the economic strategies of the regional development agencies. A related aim was to secure greater operational efficiency. The deadline for submitting responses was 22 May 2006.

7.12. Responses were received from a range of local, regional and national organisations representative of stakeholders in regeneration and economic development, including local government and the voluntary and business sectors. Approximately half of those who commented on the aims of better alignment and greater efficiency were broadly supportive. A small number expressed disagreement.

7.13. All Local Authorities were consulted on the National Strategic Reference Framework (NSRF) and the outcomes indicated considerable support for greater strategic alignment between ERDF programmes and

domestic programmes and for regional development agencies to take a stronger role in delivering ERDF.

7.14. An analysis of responses can be viewed at <http://www.berr.gov.uk/consultations/page28796.html>

7.15. The National Strategic Reference Framework was published on 23 October 2006. The Government decided that the best way to achieve the stated aims would be to designate the regional development agencies as intermediate bodies to carry out specified functions of the managing authority.

7.16. In July 2007 the Department issued to the regional development agencies other than the Agency a consultation paper on draft regulations, and in August 2007 the Department sought their views on a draft Schedule of Managing Authority Functions, which proposed an allocation of managing authority functions between the managing authority and the intermediate body.

7.17. Similar but parallel consultations were undertaken with the GLA and the Agency through 2007 and the first quarter of 2008 for the London region. Similar and parallel because the GLA Act 1999 applies in London and London is the only region with a directly elected Mayor exercising wide powers across the region. The modifications of the GLA Act 1999 are only applicable to the London region. Taken together, these factors informed the rationale for the alternative approach adopted in London given the region's unique circumstances and the complexities thereof. It is for these reasons that these Regulations are being introduced after those for the other eight English regions outlined in 4.6.

7.18. The GLA and the Agency are supportive of the proposals to designate them as intermediate bodies for 2007-2013 ERDF operational programme. Every other regional development agency was also supportive of the proposal

to designate it as an intermediate body for the programme (or programmes) for its region, and the proposal to make all designations on the same terms.

7.19. On January 18th 2008, the House of Lords Select Committee on the Merits of Statutory Instruments through the Committee Adviser, asked the Department for confirmation that: “in your consultation processes on these SIs, local authorities have not raised objections to the arrangements proposed, notably the role of RDAs”.

7.20. In reply to the Committee on 21st January 2008, the Department confirmed that “all LAs were consulted on the National Strategic Reference Framework (NSRF) and that the results indicated significant support for the delivery model as set out in question 5 and 10. It [the results of the consultation] also addresses the main concerns raised regarding match funding not being dependent on the single pot only and continued close working with other social partners in the Region. Consultation responses attached.”

8. Impact

8.1. An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1. Femi Ojumu at the Department for Communities and Local Government (email: femi.ojumu@communities.gsi.gov.uk or telephone 020 7944 4400) can answer any queries regarding the instrument.