L.N. 8 of 2011

EUROPEAN UNION ACT
(CAP. 460)

European Grouping of Territorial Co-operation Order, 2011

IN exercise of the powers conferred upon him by article 4(2) of the European Union Act, the Prime Minister has made the following Order:

Citation.

1. The title of this Order is the European Grouping of Territorial Cooperation Order, 2011.

Interpretation.

2. In this Order -

"the EC Regulation" means Regulation (EC) No 1082/2006 of the European Parliament and of the Council on a European grouping of territorial cooperation as may be amended from time to time;

"EGTC" means a European grouping of territorial co-operation formed under the EC Regulation;

"Malta EGTC" means an EGTC which has its registered office in Malta;

"the Minister" means the Minister responsible for finance;

"statutes" refers to the statutes of a Malta EGTC.

Objective.

3. (1) A European grouping of territorial co-operation, hereinafter referred to as "EGTC", may be established on Community territory under the conditions and subject to the arrangements provided for by the EC Regulation.

(2) The objective of an EGTC shall be to facilitate and promote cross-border, transnational and, or inter-regional co-operation between its members as set out in Article 3(1) of the EC Regulation, with the exclusive aim of strengthening economic and social cohesion.

(3) An EGTC shall have legal personality.

(4) An EGTC shall have in each Member State the most extensive legal capacity accorded to legal persons under that Member State's national law. It may, in particular, acquire or dispose of

movable and immovable property, employ staff and may be a party to legal proceedings.

Convention.

4. (1) An EGTC shall be governed by a convention concluded unanimously by its members in accordance with Article 4 of the EC Regulation.

(2) The convention shall specify:

(a) the name of the EGTC and its registered office, in the case of a Malta EGTC, which shall be located in Malta under whose laws at least one of the members is formed;

(b) the extent of the territory in which the EGTC may execute its tasks;

(c) the specific objective and tasks of the EGTC, its duration and the conditions governing its dissolution;

(d) the list of the EGTC's members;

(e) the law applicable to the interpretation and enforcement of the convention, which shall be the law of Malta in the case of a Maltese EGTC;

(f) the appropriate arrangements for mutual recognition, including for the purposes of financial control; and

(g) the procedures for amending the convention, which shall comply with the obligations set out in Articles 4 and 5 of the EC Regulation.

Statutes.

5. (1) The statutes of an EGTC shall be adopted on the basis of the convention by its members acting unanimously.

(2) The statutes of an EGTC shall contain, as a minimum, all the provisions of the convention together with the following:

(a) the operating provisions of the EGTC's organs and their competencies, as well as the number of representatives of the members in the relevant organs;

(b) the decision-making procedures of the EGTC;

(c) the working language or languages;

(d) the arrangements for its functioning, notably concerning personnel management, recruitment procedures and the nature of personnel contracts;

(e) the arrangements for the members' financial contributions and the applicable accounting and budgetary rules, including on financial issues, of each of the members of the EGTC with respect to it;

(f) the arrangements for members' liability in accordance with Article 12(2) of the EC Regulation;

(g) the authorities responsible for the designation of independent external auditors; and

(h) the procedures for amending the statutes, which shall comply with the obligations set out in Articles 4 and 5 of the EC Regulation.

Organisation of an EGTC.

6. (1) In accordance with Article 10 of the EC Regulation, an EGTC shall have at least the following organs:

(a) an assembly, which is made up of representatives of its members; and

(b) a director, who represents the EGTC and acts on its behalf.

(2) The statutes may provide for additional organs with clearly defined powers.

(3) An EGTC shall be liable for the acts of its organs as regards third parties, even where such acts do not fall within the tasks of the EGTC.

Acquisition of legal personality.

7. (1) For the purposes of Article 5(1) of the EC Regulation, the statutes and any subsequent amendments shall be registered and upon such registration, the Minister shall as soon as possible cause the fact of registration to be published by notice in the Gazette. The notice shall include the full name of the Malta EGTC, the objectives, members, date of constitution and registered office.

(2) The Malta EGTC shall acquire legal personality on the day of registration or publication, whichever occurs first.

(3) The Malta EGTC shall ensure that, within ten working days from registration of the statutes, a request is sent to the Office for Official Publications of the European Communities for publication of a notice in the Official Journal of the European Union announcing the establishment of the EGTC, with details of its name, objectives, members and registered office.

(4) An EGTC shall be made up of members located on the territory of at least two Member States, in the case of a Malta EGTC, one of which being Malta.

Competent authority and court.

8. (1) The Minister shall be the competent authority for the purpose of receiving the notifications and documents under Article 4(4) of the EC Regulation.

(2) The Minister shall be the competent body for the purpose of prohibiting, under Article 13 of the EC Regulation, any activity carried on in Malta by an EGTC where such an activity is in contravention of any legal provisions of a public policy nature or of any law providing for public security, public health or public morality, or is in contravention of the public interest in Malta.

(3) The Minister shall be the competent authority for the purpose of making an application under Article 14(1) of the EC Regulation.

(4) The Civil Court, First Hall, shall be the competent court for the purpose of ordering the winding up of a Malta EGTC under Article 14(1) of the EC Regulation.

Budget.

9. (1) A Malta EGTC shall comply with the provisions of articles 45, 46, 47, 48, 49, 50 and 51 of the Co-operative Societies Act, regarding accounts and audit, which provisions shall apply *mutatis mutandis* and shall be read and construed as if references in those articles to "society" were references to an EGTC, and references to "the Board" were read and construed as references to the Minister under this Order, and with such modifications as are necessary to accommodate the fact that an EGTC is not a co-operative society.

Cap. 442.

(2) A Malta EGTC shall appoint an auditor, which appointment shall be made in accordance with article 45 of the Co-operatives Societies Act.

Cap. 442.

(3) The auditor of a Malta EGTC shall be a person eligible for appointment as a company auditor under the Companies Act.

Cap. 386.

Insolvency and winding up.
Cap. 442.

10. The dissolution and winding up of a Malta EGTC shall be regulated by the provisions of Part IX of the Co-operatives Societies Act, whose provisions shall apply *mutatis mutandis* and shall be read as if -

(a) references to "the Board" were read and construed as references to the Minister under this Order;

(b) sub-articles (3) and (4) of article 105 shall not apply; and

(c) references in article 104 to "patronage refund" shall not apply.

Tasks that can be carried out without a Community financial contribution.

11. The tasks which a Malta EGTC may carry out without a Community financial contribution shall be limited to the co-operation actions listed under Article 6 of Regulation (EC) No 1080/2006.

Prohibition of members with limited liability.

12. A Malta EGTC shall not have any member with limited liability.

Jurisdiction.

13. Third parties who consider themselves wronged by the acts or omissions of an EGTC shall be entitled to pursue their claims by judicial process.