

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4792 GIBRALTAR Friday 11th December 2020

LEGAL NOTICE NO. 447 OF 2020

EUROPEAN UNION (WITHDRAWAL) ACT 2019

EUROPEAN UNION (WITHDRAWAL AGREEMENT) ACT 2020

EUROPEAN UNION WITHDRAWAL (CONSEQUENTIAL MODIFICATIONS) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred on the Minister by section 15(1) and (2) of, and paragraphs 1 and 6 of Schedule 3 to, the European Union (Withdrawal) Act 2019, and section 25(1) and (2) of the European Union (Withdrawal Agreement) Act 2020, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020.

Commencement.

2.(1) Subject to subregulation (2), these Regulations come into operation on IP completion day.

(2) Regulation 1, this regulation and regulation 5 come into operation immediately before IP completion day.

Amendment of the Interpretation and General Clauses Act.

3.(1) Section 17 of the Interpretation and General Clauses Act is amended in accordance with this regulation.

(2) In the heading after “Act” insert “, etc”

(3) After subsection (1) insert-

“(1A) Where-

- (a) an Act passed on or after IP completion day refers to any treaty relating to the EU or any instrument or other document of an EU entity; and
- (b) the treaty, instrument or document has effect by virtue of section 10A or 10B of the European Union (Withdrawal) Act 2019,

the reference, unless the contrary intention appears and so far as required for the purposes of relevant separation agreement law, is a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).”.

(4) In subsection (2), for “Where” substitute “Subject to subsection (1A), where”.

(5) In subsection (4) for “subsection (2) or” substitute “subsections (1A) to”.

(6) After subsection (4) insert-

“(5) In this section, “treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).”.

Amendment of the European Union (Withdrawal) Act 2019.

4.(1) Schedule 4 to the European Union (Withdrawal) Act 2019 is amended in accordance with this regulation.

(2) In paragraph 1 –

(a) in subparagraph (1) for “which”, where it first appears, substitute “so far as it”;
and

(b) in subparagraph (2) for “which” substitute “so far as it”.

(3) After paragraph 1 insert-

“Existing ambulatory references to relevant separation agreement law.

1A.(1) Any reference which, immediately before IP completion day-

(a) exists in-

(i) any enactment,

(ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 6, or

(iii) any document relating to anything falling within subparagraph (i) or (ii); and

(b) is a reference to (as it has effect from time to time) any of the EU Treaties, any EU instrument or any other document of an EU entity,

is, if the treaty, instrument or document has effect on or after IP completion day by virtue of section 10A or 10B and so far as required for the purposes of

relevant separation agreement law, to be read on or after that day as, or including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

- (2) In subparagraph (1) “treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement.
- (3) Subparagraphs (1) and (2) are subject to any other provision made by or under this Act or any other enactment.”.

(4) In paragraph 2-

- (a) in subparagraph (1) for “which”, where it first appears, substitute “so far as it”; and
- (b) in subparagraph (2) for “which” substitute “so far as it”.

(5) After paragraph 2 insert-

“Existing non-ambulatory references.

2A.(1) Any reference which, immediately before IP completion day-

- (a) exists in-
 - (i) any enactment, or
 - (ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA Agreement which is to form part of domestic law by virtue of section 6; and
- (b) is a reference to any of the EU Treaties, any EU instrument or any other document of an EU entity as it has effect at a particular time which is earlier than IP completion day,

is to be read, on or after IP completion day, in accordance with one or more of subparagraphs (2) to (4).

(2) If the treaty, instrument or document has effect by virtue of section 10A or 10B on or after IP completion day and so far as required for the purposes of relevant separation agreement law, the reference is to be read on or after that day as, or as including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

(3) So far as-

- (a) the reference is a reference to –

- (i) any EU regulation, EU decision or EU tertiary legislation,
 - (ii) any provision of the EEA Agreement, or
 - (iii) any part of anything falling within subparagraph (i) or (ii),
- (b) what has been referred to (“the subject law”) is to form part of domestic law by virtue of section 6; and
- (c) there has been no relevant modification of the subject law after the particular time and before IP completion day,

the reference is to be read, on or after IP completion day, as a reference to the subject law as it forms part of domestic law by virtue of section 6.

(4) So far as the reference is not to be read in accordance with subparagraphs (2) or (3), the reference is to be read, on or after IP completion day, as a reference to the treaty, instrument or document as it had effect in EU law at the particular time.

(5) Subparagraph (3) does not determine whether, where the subject law is modified by domestic law on or after IP completion day, the reference is to be read as a reference to the subject law as modified.

(6) This paragraph is subject to any provision made by or under this Act or any other enactment.

(7) In this paragraph-

“relevant modification” means any modification in EU law which-

- (a) is to form part of domestic law by virtue of section 6; and
- (b) would, if the reference were to the subject law as modified, result in an alteration to the effect of the reference (ignoring any alteration which is irrelevant in the context concerned);

“the subject law” has the meaning given by subparagraph (3)(b);

“treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).”.

Revocation.

5. Regulation 3 of the European Union (Withdrawal) Act 2019 (Consequential Modifications) (EU Exit) Regulations 2020 is revoked.

Dated: 11th December 2020.

DR J GARCIA,
Deputy Chief Minister.

EXPLANATORY MEMORANDUM

These Regulations are made in exercise of the powers conferred by section 15(1) and (2) of, and paragraphs 1 and 6 of Schedule 3 to, the European Union (Withdrawal) Act 2019, and section 25(1) and (2) of the European Union (Withdrawal Agreement) Act 2020.

Regulation 3 amends the Interpretation and General Clauses Act and makes interpretive provision for references on or after IP completion day to EU instruments which form part of relevant separation agreement law.

Regulation 4 amends Schedule 4 to the European Union (Withdrawal) Act 2019 to make general provision about what happens on IP completion day to non-ambulatory cross-references to EU instruments and in respect of references to relevant separation agreement law.

Regulation 5 revokes regulation 3 of the European Union (Withdrawal) Act 2019 (Consequential Modifications) (EU Exit) Regulations 2020 in consequence of the alternative provisions made by these Regulations.