

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4805 GIBRALTAR Friday 1st January 2021

---

---

LEGAL NOTICE NO. 29 OF 2021.

## EUROPEAN UNION WITHDRAWAL (APPLICATION OF INTERNATIONAL AGREEMENTS) ACT 2019

## EUROPEAN UNION WITHDRAWAL (APPLICATION OF INTERNATIONAL AGREEMENTS) (PROCUREMENT) REGULATIONS 2021

In exercise of the powers conferred upon him by sections 5(1) and (2) of the European Union Withdrawal (Application of International Agreements) Act 2019, the Chief Minister has made the following Regulations.

### **Title.**

1. These Regulations may be cited as the European Union Withdrawal (Application of International Agreements) (Procurement) Regulations 2021.

### **Commencement.**

2. These Regulations come into operation on the same day as the European Union Withdrawal (Application of International Agreements) Act 2019.

### **Amendments to procurement regulations.**

3. The regulations specified in the first column of the Schedule are substituted with the regulations in the second column of the Schedule.

**SCHEDULE**

**AMENDMENTS**

<b>Regulation(s)</b>	<b>Substitution</b>
<p>Regulation 26 of the Procurement (Public Sector Contracts) Regulations 2016</p>	<p><b>Conditions relating to international agreements.</b></p> <p>26. (1) Where a relevant international agreement applies to a procurement, the contracting authority shall accord to the works, supplies, services and economic operators of the State or other subject of international law that is party to that agreement treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of Gibraltar.</p> <p>(2) For the purposes of paragraph (1), a relevant international agreement applies if the procurement is covered by an agreement listed in the Schedule to the European Union Withdrawal (Application of International Agreements) Act 2019.</p>
<p>Regulation 90 of the Procurement (Public Sector Contracts) Regulations 2016</p>	<p><b>Duty owed to economic operators from other States.</b></p> <p>90. (1) The duty owed in accordance with regulation 89 is a duty owed also to an economic operator from a State or other subject of international law in respect of which a relevant international agreement applies, but only where the agreement applies to the procurement concerned.</p> <p>(2) For the purposes of paragraph (1), a relevant international agreement applies if the procurement is covered by an agreement listed in the Schedule to the European Withdrawal (Application of International Agreements) Act 2019.</p>
<p>Regulation 47 of the Procurement (Concession Contracts) Regulations 2016</p>	<p><b>Duty owed to economic operators from other States.</b></p> <p>47. (1) The duty owed in accordance with regulation 46 is a duty owed also to an economic operator from a State or other subject of international law in respect of which a relevant international agreement applies, but only where the agreement applies to the procurement concerned.</p> <p>(2) For the purposes of paragraph (1), a relevant</p>

	<p>international agreement applies if the procurement is covered by an agreement listed in the Schedule to the European Withdrawal (Application of International Agreements) Act 2019.</p>
<p>Regulation 41 of the Procurement (Utilities Contracts) Regulations 2016</p>	<p><b>Conditions relating to international agreements.</b></p> <p>41. (1) Where a relevant international agreement applies to a procurement, utilities shall accord to the works, supplies, services and economic operators of the State or other subject of international law that is party to that agreement treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of Gibraltar.</p> <p>(2) For the purposes of paragraph (1), a relevant international agreement applies if the procurement is covered by an agreement listed in the Schedule to the European Union Withdrawal (Application of International Agreements) Act 2019.</p>
<p>Regulation 103 of the Procurement (Utilities Contracts) Regulations 2016</p>	<p><b>Duty owed to economic operators from other States.</b></p> <p>103. (1) The duty owed in accordance with regulation 102 is a duty owed also to an economic operator from a State or other subject of international law in respect of which a relevant international agreement applies, but only where the agreement applies to the procurement concerned.</p> <p>(2) For the purposes of paragraph (1), a relevant international agreement applies if the procurement is covered by an agreement listed in the Schedule to the European Withdrawal (Application of International Agreements) Act 2019.</p>

---

Dated: 1<sup>st</sup> January 2021.

F R PICARDO,  
Chief Minister.

## **EXPLANATORY MEMORANDUM**

These Regulations amend the Procurement (Utilities Contracts) Regulations 2016, the (Public Sector Contracts) Regulations 2016 and the Procurement (Concession Contracts) Regulations 2016 in order to ensure that the procurement provisions in trade continuity agreements which extend to Gibraltar (“relevant international agreements” under the European Withdrawal (Application of International Agreements) Act 2019) are implemented.