

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4647 GIBRALTAR Thursday 9th January 2020

LEGAL NOTICE NO. 2 OF 2020

EUROPEAN UNION (WITHDRAWAL) ACT 2019

EUROPEAN UNION (WITHDRAWAL) ACT 2019 (CONSEQUENTIAL MODIFICATIONS) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred on the Minister by sections 11(1), 15(1) and (2) of, and paragraph 1(b) of Schedule 3 to the European Union (Withdrawal) Act 2019, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the European Union (Withdrawal) Act 2019 (Consequential Modifications) (EU Exit) Regulations 2020.

Commencement.

2. These Regulations come into operation on exit day.

Interpretation of non-ambulatory references to direct EU legislation etc.

3.(1) Any reference which, immediately before exit 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 of the European Union (Withdrawal) Act 2019; and
- (b) is a reference to any of the following as it has effect at a particular time which is earlier than exit day-
 - (i) any EU regulation, EU decision or EU tertiary legislation,
 - (ii) any provision of the EEA agreement,
 - (iii) any of the EU Treaties,
 - (iv) any other EU instrument or other document of an EU entity, or
 - (v) any part of anything falling within paragraph (i), (ii), (iii) or (iv),

is to be read, on or after exit day, in accordance with subregulation (2) or (3) as the case may be.

(2) If-

(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 paragraph (i) or (ii);

(b) there has been no relevant modification after the particular time of what has been referred to (“the subject law”); and

(c) the subject law is to form part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019,

the reference is to be read, on or after exit day, as a reference to the subject law as it forms part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019.

(3) In any other case, the reference is to be read, on or after exit day, as a reference to the subject law as it had effect in EU law at the particular time.

(4) Subregulation (2) does not determine whether, where the subject law is modified by domestic law on or after exit day, the reference is to be read as a reference to the subject law as modified.

(5) This regulation is subject to any provision made by or under the European Union (Withdrawal) Act 2019 or any other enactment.

(6) In this regulation-

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

(a) is to form part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019; 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 subregulation (2)(b).

Interpretation of references created on or after exit day to EU regulations etc.

4. In section 17 of the Interpretation and General Clauses Act-

(a) renumber the section as subsection (1); and

(b) after subsection (1) insert-

- “(2) Where an Act passed on or after exit day refers to any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement, the reference, unless the contrary intention appears, is a reference to the EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement as it forms part of Gibraltar law by virtue of section 6 of the European Union (Withdrawal) Act 2019.
- (3) Subsection (1) does not determine any question as to whether the reference is to be read as a reference to the EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement as modified by Gibraltar law (and, accordingly, is without prejudice to subsection (2)).
- (4) Any expression in subsection (2) or (3) which is defined in the European Union (Withdrawal) Act 2019 has the same meaning in this section as in that Act.”.

Dated 9th January 2020.

DR J GARCIA,
Deputy Chief Minister.

EXPLANATORY MEMORANDUM

These Regulations make general interpretive provisions in consequence of the European Union (Withdrawal) Act 2019. Regulation 3 makes provision about what happens on exit day to non-ambulatory references to EU instruments. Regulation 4 makes amendment to the Interpretation and General Clauses Act, providing for the interpretation of references on or after exit day to EU instruments which form part of Gibraltar law by virtue of section 6 of the European Union (Withdrawal) Act 2019.