

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4777 GIBRALTAR Thursday 5th November 2020

LEGAL NOTICE NO. 387 OF 2020

EUROPEAN UNION (WITHDRAWAL) ACT 2019

GIBRALTAR MERCHANT SHIPPING (MISCELLANEOUS PROVISIONS) (AMENDMENT) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred on him by section 11 of, and paragraph (1) of Schedule 3 to the European Union (Withdrawal) Act 2019, the Minister has made the following Regulations-

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020 and come into operation on 1 January 2021.

PART 1

Revocation of retained EU law

Revocation.

2. The following instruments are revoked-

- (a) Regulation (EEC) No 1101/89;
- (b) Regulation (EC) No 718/1999;
- (c) Regulation (EC) 1406/2002;
- (d) Regulation (EC) No 2099/2002;
- (e) Regulation (EC) No 414/2007;
- (f) Regulation (EC) No 415/2007;
- (g) Regulation (EC) No 416/2007;
- (h) Regulation (EC) No 181/2008;
- (i) Regulation (EU) No 164/2010;
- (j) Regulation (EU) No 689/2012;

- (k) Regulation (EU) No 909/2013;
- (l) Regulation (EU) No 911/2014;
- (m) Council Decision 77/587/EEC;
- (n) Council Decision 2014/195/EU;
- (o) Council Decision (EU) 2016/381;
- (p) Commission Decision (EU) 2016/566;
- (q) Council Decision (EU) 2017/769; and
- (r) Council Decision (EU) 2017/770.

PART-2

Miscellaneous amendments to subsidiary legislation

Amendments to the Gibraltar Merchant Shipping (Safety Rules and Standards for Passenger Ships on Domestic Voyages) Regulations 2011

3.(1) The Gibraltar Merchant Shipping (Safety Rules and Standards for Passenger Ships on Domestic Voyages) Regulations 2011 are amended-

- (a) in the Long title, by deleting the words “and for the purpose of transposing into the law of Gibraltar the Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships”;
- (b) in regulation 2(1)-
 - (i) by deleting the definition of “Annex I”;
 - (ii) by deleting the definition of “Commission”;
 - (iii) by substituting the following definition for the definition of “domestic voyage”-
 - ““domestic voyage” means a voyage in sea areas either-
 - (a) from the port of Gibraltar to the same or another port within Gibraltar; or
 - (b) from a port of a Member State to the same or another port within that Member State;”;
 - (iv) by inserting the following definition after the definition of “host State”-

““IMO” means the International Maritime Organisation;”;

- (v) by substituting the following definition for the definition of “ro ro passenger ship”-

“ “ro-ro passenger ship” means a passenger ship provided with cargo or vehicle spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which vehicles or cargo can be loaded or unloaded in a horizontal direction;”;

- (vi) by substituting the following definition for the definition of “sea area”-

“sea area” means, in relation to BGTW, any sea area or sea route established under regulation 5, and, in relation to the waters of a Member State, means an area established by a Member State pursuant to Article 4(2) of the Directive”; and

- (c) in regulation 5-

- (i) in sub-regulation (2), by deleting the words “and the Government shall ensure that the Commission is duly notified of the location of such information,”;

- (ii) in sub-regulation (5)-

- (aa) by deleting the words “for the purpose of Article 4 of the Directive,”;
and

- (bb) by substituting the word “IMO” for the word “Commission”;

- (d) in regulation 10(6), by substituting the word “IMO” for the word “Commission”;

- (e) in regulation 15 –

- (i) in sub-regulation (1), by deleting the words “subject to the procedure laid down in regulation 17”; and

- (ii) in sub-regulation (2), by deleting the word “other” before the word “EEA”;

- (f) in regulation 17-

- (i) in paragraph (a), by substituting the word “IMO” for the word “Commission”;
- (ii) in paragraph (b), by deleting the words “in accordance with the procedure mentioned in Article 11 (2) of the Directive”;
- (g) in paragraph (c), by substituting the word “IMO” for the word “Commission”;
- (h) in regulation 18(3), by substituting the word “IMO” for the word “Commission”;
- (i) in Schedule 2, by deleting the words “under the provision of Council Directive 94/57/EC.”.

Amendments to the Gibraltar Merchant Shipping (Stability Requirements for Ro-Ro Passenger Ships) Regulations 2006.

4. The Gibraltar Merchant Shipping (Stability Requirements for Ro-Ro Passenger Ships) Regulations 2006 are amended-

- (a) in Long title by deleting the words “for the purposes of transposing Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships as amended by Commission Directive 2005/12/EC of 18 February 2005 into the law of Gibraltar”;
- (b) in regulation 2, by substituting the following definition for the definition of “international voyage”-
 - ““international voyage” means a voyage between-
 - (a) the port of Gibraltar and a port outside Gibraltar; or
 - (b) a port in another country and a port in any other country or territory which is outside Gibraltar”;
- (c) in regulation 3(a) by inserting the words “the port of Gibraltar or” after the words “to or from”;
- (d) in regulation 6, by deleting the words “of Article 4 of and Annex I to the Directive” each time occurring in sub-regulations (1, (2) and (3); and
- (e) in regulation 7(3) by deleting the words “EEA State or”.

Amendments to the Gibraltar Merchant Shipping (Ro-Ro Passenger Ships and High-speed Passenger Crafts on Regular Service) Regulations 2020.

5. The Gibraltar Merchant Shipping (Ro-Ro Passenger Ships and High-speed Passenger Crafts on Regular Service) Regulations 2020 are amended-

- (a) in the Long title by deleting the words “for the purpose of transposing into the law of Gibraltar, Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC,”;
- (b) in regulation 2, in the definition of “certificates” by inserting the words “and where appropriate exemption certificates and permits to operate” after the words “records of equipment” each time occurring in paragraphs (a) and (b); and
- (c) in Schedule 2, paragraph 4, by substituting the words “the Directive” for the words “this Directive”.

Amendments to the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

6. The Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004 are amended-

- (a) in the Long title by deleting the words “for the purposes of transposing into the law of Gibraltar Directive 2002/59/EC of the European Parliament and of the Council establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC,”;
- (b) in regulation 2(1) by substituting the following definition for the definition of “domestic voyage”-
 - ““domestic voyage” means a voyage from the port of Gibraltar to the same or another port in Gibraltar;”;
- (c) in regulation 3(2)(b) by inserting the word “Gibraltar or” after “the Government of”;
- (d) in regulation 10B (2) by substituting the word “IMO” for the words “European Commission”;
- (e) in regulation 12(5)(a) by inserting the words “or the United Kingdom” after the words “EEA State”;

- (f) in regulation 13(9) by substituting the word “IMO” for the words “European Commission”;
- (g) in regulation 18B(6) by substituting the word “IMO” for the words “European Commission”;
- (h) in regulation 22C(5) by substituting the word “IMO” for the words “European Commission”.

Amendments to the Merchant Shipping (Port State Control) Regulations 2011.

7. The Merchant Shipping (Port State Control) Regulations 2011 are amended-

- (a) in the Long title, by deleting the words “and for the purpose of transposing and implementing into the law of Gibraltar Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port state control, Commission Directive 96/40/EC of 25 June 1996 establishing a common model for an identity card for inspectors carrying out port State control and Commission Regulation (EU) No. 428/2010 of 20 May 2010 implementing Article 14 of Directive 2009/16/EC,”;
- (b) in regulation 2(1)-
 - (aa) by substituting the following definition for the definition of “Directive 1999/35/EC-
““EU Regulation” means Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending;”, and
 - (bb) by substituting the following definition for the definition of “initial inspection”-
““initial inspection” means a visit on board a ship by an inspector in order to check compliance with the relevant Conventions including at least the checks set out in Article 13.1 of the Directive and on and after 30th June 2019 compliance with Article 18 of EU Regulation”;
- (c) in regulation 14A(8) by substituting the words “a Member State or the United Kingdom” for the words “another Member State”;
- (d) in regulation 21(9) by deleting the words “in accordance with Article 26 of the Directive”;
- (e) in regulation 28 (1) by substituting the word “IMO” for the words “European Commission”;

- (f) in paragraph 2A of Part 2, Schedule 1 by substituting the words “a Member State or the United Kingdom” for the words “another Member State”;
- (g) in Schedule 8, in paragraphs 2 and 11, by deleting the words “the Commission” each time occurring;
- (h) in Schedule 12, in paragraphs 1 and 2, by substituting the word “IMO” for the word “Commission” each time occurring;
- (i) in Schedule 15 by substituting the words “a Member State or the United Kingdom” for the words “another Member State”.

Amendments to the Gibraltar Merchant Shipping (Flag State Requirements) Regulations 2011.

8. The Gibraltar Merchant Shipping (Flag State Requirements) Regulations 2011 are amended-

- (a) in the Long title, by deleting the words “and for the purpose of transposing into the law of Gibraltar Directive 2009/21/EC on compliance with flag State requirements,”;
- (b) in regulation 2(1)-
 - (i) by inserting the following definition after the definition of “certificates” –

“EC Regulation 789/2004” means Regulation (EC) No 789/2004 of the European Parliament and of the Council of 21st April 2004 on the transfer of cargo and passenger ships between registers within the Community and repealing Council Regulation (EEC) No 613/91,;
 - (ii) by inserting the following definition after the definition of “IMO audit”;

“IMO Conventions” means the conventions for which the International Maritime Organization is the depository;”;
 - (iii) by substituting the following definition for the definition of “ship”-

“ship” means a ship or craft flying the flag of a Member State, the United Kingdom or Gibraltar, falling within the scope of the relevant IMO Conventions, and for which a certificate is required.”;
- (c) by substituting the following regulation for regulation 7-

“Duty to ensure information is retained.

- “7.(1) The Administration shall ensure that the information referred to in sub-regulation (2) concerning each Gibraltar ship-
- (a) is kept; and
 - (b) can be readily accessed by the Administration.
- (2) The information referred to in sub-regulation (1) is as follows-
- (a) particulars of the ship (including name and IMO number);
 - (b) dates of surveys, including additional and supplementary surveys, if any, and audits;
 - (c) identification of the recognised organisations involved in the certification and classification of the ship;
 - (d) identification of the competent authority which has inspected the ship under port State control provisions and the dates of the inspections;
 - (e) outcome of the port State control inspections (including any deficiencies identified and any detentions which took place);
 - (f) information on marine casualties; and
 - (g) identification of ships which have ceased to fly the flag of Gibraltar during the previous 12 months.
- (3) The duty in sub-regulation (1) ends-
- (a) 12 months after the date on which the ship ceases to be a Gibraltar ship;
or
 - (b) if sooner, on the date on which the information is provided to a flag State under regulation 4(2) or under Article 4(3) of the EC Regulation 789/2004.”.

Amendments to the Gibraltar Merchant Shipping (Insurance for Maritime Claims) Regulations 2012.

9. The Gibraltar Merchant Shipping (Insurance for Maritime Claims) Regulations 2012 are amended-

- (a) in the Long title, by deleting the words “and for the purpose of transposing into the law of Gibraltar Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowner’s for maritime claims,”;

- (b) in regulation 5-
- (i) by deleting the words “the European Commission, the Member States and” in sub-regulation (2);
 - (ii) by substituting the following sub-regulation for sub-regulation (3)-

“(3) The Administration shall refuse entry into the port of Gibraltar of any ship which has been issued with an expulsion order by any Member State or the United Kingdom for not having the insurance of ship-owners for maritime claims, and such refusal shall prevail until such time as the shipowner notifies the Administration of having the insurance certificate to that effect in respect of that ship.”.

Dated: 4th November 2020

VIJAY DARYANANI,
Minister with responsibility for the Port and Shipping.

EXPLANATORY MEMORANDUM

(This Memorandum is not part of the Regulations)

These Regulations are made in exercise of the powers conferred on him by section 11 of and paragraph (1) of Schedule 3 to the European Union (Withdrawal) Act 2019 in order to address failures of retained EU law to operate effectively and other deficiencies, arising from the withdrawal of Gibraltar from the European Union.

These Regulations make amendments to maritime subsidiary legislation and in particular amend legislation relating to ship safety standards and registration of ships. Part 1 revokes certain retained EU legislation and Part 2 amends certain subsidiary legislation.