

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

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LEGAL NOTICE NO. 497 OF 2020

## EUROPEAN UNION (WITHDRAWAL) ACT 2019

### FINANCIAL SERVICES (PAYMENT ACCOUNTS) (AMENDMENT) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019, the Minister has made these Regulations—

#### **Title.**

1. These Regulations may be cited as the Financial Services (Payment Accounts) (Amendment) (EU Exit) Regulations 2020.

#### **Commencement.**

2. These Regulations come into operation on 1st January 2021.

#### **Amendment of the Financial Services (Payment Accounts) Regulations 2020.**

3.(1) The Financial Services (Payment Accounts) Regulations 2020 are amended as follows.

(2) In regulation 3—

- (a) after paragraph (b), insert “and”; and
- (b) omit paragraph (c).

(3) In regulation 4—

- (a) for the definition of “competent authority” substitute—  
““competent authority” means the GFSC;”;
- (b) omit the definition of “credit institution”;
- (c) in the definition of “funds”, omit “within the meaning of the E-Money Directive”;

- (d) in the definition of “legally resident consumer” for “right to reside in Gibraltar or an EEA State by virtue of European Union or domestic law” substitute “legal right to reside in Gibraltar”;
- (e) omit the definition of “payment instrument”;
- (f) in the definition of “the SEPA Regulation” for “as amended from time to time” substitute “as it forms part of the law of Gibraltar after IP completion day”;
- (g) in the definition of “services linked to the payment account” for “Article 3(g) of the Payment Services Directive” substitute “paragraph 18(g) of Schedule 2 to the Act”; and

- (h) for the definition of “the standardised terms” substitute–

““the standardised terms” means the standardised terms and definitions for representative linked services that are commonly provided in Gibraltar, specified in technical standards;”.

- (4) In regulation 6–

- (a) in sub-regulation (2) for paragraph (c) substitute–

“(c) use the standardised terms.”; and

- (b) in sub-regulation (3) for paragraph (b) substitute–

“(b) any guidance on the application of the criteria in paragraph (a) issued by the GFSC in accordance with Article 16 of Regulation (EU) No 1093/2010 as it forms part of the law of Gibraltar after IP completion day.”.

- (5) In regulation 7–

- (a) in sub-regulation (2)(f) omit “of the European Economic Area”;

- (b) for sub-regulation (4) substitute–

“(4) A fee information document must comply with any technical standards concerning the format of, and common symbol for, a fee information document.”

- (c) in sub-regulation (5)(c), omit “European Union or”;

- (d) in sub-regulation (9)–

- (i) for “Article 42(3) of the Payment Services Directive” substitute “paragraph 3 of Schedule 2 to the Financial Services (Payment Services) Regulations 2020”; and

- (ii) after “Consumer Credit Directive” insert “as that Directive applied in Gibraltar immediately before IP completion day”.

(6) In regulation 8–

- (a) for sub-regulation (5) substitute–

“(5) A statement of fees must comply with any technical standards concerning the format of, and common symbol for, a statement of fees.”; and

- (b) in sub-regulation (6)–

- (i) for “Articles 57 and 58 of the Payment Services Directive” substitute “regulations 34 and 35 of the Financial Services (Payment Services) Regulations 2020”; and
- (ii) after “Consumer Credit Directive” insert “as that Directive applied in Gibraltar immediately before IP completion day”.

(7) In regulation 13–

- (a) in sub-regulation (7)(e) for “Articles 55(1) and (6) of the Payment Services Directive” substitute “regulation 32(1) of the Financial Services (Payment Services) Regulations 2020”; and
- (b) in sub-regulation (11) for “Article 68(2) of the Payment Services Directive” substitute “regulation 45(2) of the Financial Services (Payment Services) Regulations 2020”.

(8) Omit regulation 14.

(9) In regulation 15(3) for “Articles 55(2), (4) and (6) of the Payment Services Directive” substitute “regulations 32(2) and (5) of the Financial Services (Payment Services) Regulations 2020”.

(10) In regulation 16(2)(b) for “an obligation arising under European Union or domestic legislation” substitute “any statutory obligation”.

(11) In regulation 18(1) for “on any ground mentioned in Article 21 of the Charter of Fundamental Rights of the European Union” substitute “ by reason of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation”.

(12) In regulation 20–

- (a) in sub-regulation (2)–

- (i) for “Money Laundering Directive” substitute “Proceeds of Crime Act 2015”;
  - (ii) in paragraph (a) for “Money Laundering Directive” substitute “Proceeds of Crime Act 2015”; and
  - (iii) in paragraph (b) for “Chapter IV of the Money Laundering Directive” substitute “that Act”; and
- (b) in sub-regulation (9)(a) for “Money Laundering Directive” substitute “Proceeds of Crime Act 2015”.
- (13) In regulation 21–
- (a) in sub-regulation (1)–
    - (i) in paragraph (c) for “within the EEA” substitute “in Gibraltar”; and
    - (ii) in paragraph (d) for “within the EEA” substitute “in Gibraltar”; and
  - (b) after sub-regulation (4), insert–
    - “(4A) A basic payment account may allow a consumer to–
      - (a) withdraw cash from the account outside Gibraltar or in a currency other than sterling in the manner specified in sub-regulation (1)(c)(i) or (ii); or
      - (b) execute a payment transaction specified in sub-regulation (1)(d)(i), (ii) or (iii) outside Gibraltar or in a currency other than sterling.”.
- (14) In regulation 23(1) for “the Payment Services Directive” substitute “the Financial Services (Payment Services) Regulations 2020”.
- (15) Omit regulation 28.

Dated: 24<sup>th</sup> December 2020.

A J ISOLA,  
Minister with responsibility for financial services.

**EXPLANATORY MEMORANDUM**

These regulations are made under the European Union (Withdrawal) Act 2019 and address failures of retained EU law to operate effectively and other deficiencies arising from Gibraltar's withdrawal from the European Union. The regulations amend the Financial Services (Payment Accounts) Regulations 2020, which give effect in Gibraltar to Directive 2014/92/EU.