

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 509 OF 2020.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

NAGOYA PROTOCOL (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred upon on him by section 11 of the European Union (Withdrawal) Act 2019 and all other enabling powers, the Minister has made the following Regulations–

Title.

1. These Regulations may be cited as the Nagoya Protocol (EU Exit) Regulations 2020.

Commencement.

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

Amendments to retained direct EU legislation – Regulation (EU) No 511/2014 of the European Parliament and of the Council

3.(1) Regulation (EU) No 511/2014 of the European Parliament and of the Council on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union is amended as follows.

(2) In Article 2-

- (a) in paragraph 1, for “the Union” substitute “Gibraltar”;
- (b) delete paragraph 3;
- (c) for paragraph 5 substitute-

“5. Nothing in this Regulation obliges disclosure of information which the Minister for the Environment considers contrary to the essential interests of national security.”.

(3) In Article 3-

- (a) for paragraph 10 substitute-

- “(10) “associations of users” means an organisation that represents the interests of users in Gibraltar and that is involved in developing and overseeing the best practices referred to in Article 8 of this Regulation;”;
- (b) after paragraph 11, insert-
- “(12) “serious cross-border threat to health” means a life-threatening or otherwise serious hazard to health of biological, chemical, environmental or unknown origin which spreads or entails a significant risk of spreading across national borders, and which may necessitate international coordination in order to ensure a high level of human health protection.”.
- (4) In Article 4-
- (a) in paragraph 7, for “the Union” substitute “Gibraltar”;
- (b) in paragraph 8, in the first subparagraph delete the words from “as defined” to “Council”.
- (5) In Article 5-
- (a) in paragraph 1-
- (i) in both places it occurs, for “Commission” substitute “Minister for the Environment”;
- (ii) delete “within the Union”;
- (b) for paragraph 2 substitute-
- “2. The Minister for the Environment must, upon request by a collection holder, consider the inclusion of that collection, or a part of it, in the register. After verifying that the collection, or a part of it, meets the criteria set out in paragraph 3, the Minister for the Environment must without delay include the information received in the register.”;
- (c) for paragraph 4 substitute-
- “4. The Minister for the Environment must regularly verify that each collection or part of a collection included in the register meets the criteria set out in paragraph 3.
- Where there is evidence, on the basis of information provided pursuant to paragraph 3, that a collection or a part of collection included in the register does not meet the criteria set out in paragraph 3, the Minister for the Environment must, in dialogue with the collection holder concerned and without undue delay, identify remedial actions or measures.

Where the Minister for the Environment determines that a collection or a part of a collection no longer complies with paragraph 3, the Minister for the Environment must remove the collection or the part of the collection concerned from the register.”.

(6) In Article 6-

(a) for paragraph 1, substitute-

“1. The Minister for the Environment must designate one or more competent authorities to be responsible for the application of this Regulation. The Minister for the Environment must publish from time to time any changes to the names or addresses of the competent authorities responsible for the application of this Regulation.”;

(b) delete paragraph 2;

(c) in paragraph 3, for “Commission” substitute “Minister for the Environment”;

(d) delete paragraph 4.

(7) In Article 7-

(a) in paragraph 1, for “Member States and the Commission” substitute “Minister for the Environment”;

(b) in paragraph 3, delete “to the Commission”;

(c) in paragraph 5, delete “Union or”.

(8) In Article 8, in paragraphs 1 to 6, in each place it occurs, for “Commission” substitute “Minister for the Environment”.

(9) In Article 9-

(a) in paragraph 2, for “Member States” substitute “The Minister for the Environment”;

(b) in paragraph 6-

(i) in the first subparagraph, delete “Without prejudice to Article 11,”;

(ii) in the second subparagraph, for “Member States” substitute “The Minister for the Environment”.

(10) For Article 10(2) substitute-

“2. The information referred to in paragraph 1 must be made available in accordance with the Freedom of Access to Information on the Environment Regulations 2005.”.

(11) Delete Article 11.

(12) In Article 12-

(a) in point (a), delete “and with the Commission”;

(b) delete point (d).

(13) In Article 13-

(a) in the words before point (a), for “Commission and Member States” substitute “Minister for the Environment”;

(b) in point (a), for “the Union” substitute “Gibraltar”.

(14) Delete Article 15.

(15) For Article 16 substitute-

“Article 16

Reports and review

1. Unless an alternative interval for reports is determined, as referred to in Article 29 of the Nagoya Protocol, the Minister for the Environment must prepare a report on the application of this Regulation every five years beginning with the day after exit day.
2. Every 10 years after the first report the Minister for the Environment must, on the basis of reporting on, and experience with the application of, this Regulation, review the functioning and effectiveness of this Regulation in achieving the objectives of the Nagoya Protocol. In carrying out the review the Minister for the Environment must, in particular, consider the administrative consequences for public research institutions, micro, small or medium-sized enterprises and specific sectors. The Minister for the Environment must also consider the need to review the implementation of the provisions of this Regulation in light of developments in other relevant international organisations.
3. The Minister for the Environment must report to the Conference of the Parties to the Convention serving as the meeting of the Parties to the Nagoya Protocol on the measures taken by Gibraltar to implement compliance measures in respect of the Nagoya Protocol.”.

(16) After Article 17, delete the words from “This Regulation” to “Member States.”.

Amendments to retained direct EU legislation – Commission Implementing Regulation (EU) No 2015/1866

4.(1) Commission Implementing Regulation (EU) No 2015/1866 laying down detailed rules for the implementation of Regulation (EU) No 511/2014 of the European Parliament and of the Council as regards the register of collections, monitoring user compliance and best practices is amended as follows.

(2) In Article 2-

- (a) in the words before point (a), for “Commission” substitute “Minister for the Environment”;
- (b) delete point (a);
- (c) in point (g), for the words from “institution” to “Member State” substitute “details of the competent authority”.

(3) In Article 3-

- (a) in the heading, delete “and notification to the Commission”;
- (b) delete paragraphs 2 and 4.

(4) In Article 5-

- (a) in paragraph 1, delete from “of the Member State” the first time it occurs, until the end;
- (b) in paragraph 2, for “national authorities” substitute “Minister for the Environment”;
- (c) in paragraph 3, delete the second and third sentences;
- (d) delete paragraph 4.

(5) In Article 6-

- (a) in paragraph 1, for the words from “competent authority” until the end of the first sentence substitute “relevant competent authority”;
- (b) in paragraphs 2(b), 2(c) and 4, in each place it occurs, for “Union” substitute “Gibraltar”.

(c) in paragraphs 2(d) and 2(e) in each place it occurs, for “the Union” substitute “Gibraltar”.

(6) In Article 7, delete paragraphs 3 and 4.

(7) For Article 8 substitute-

“Article 8

Application for recognition of a best practice

1. An application submitted in accordance with Article 8(1) of Regulation (EU) No 511/2014 must be made to the Minister for the Environment by providing the information and supporting documentation specified in Annex 4 to this Regulation.
2. An interested party that does not represent users but is involved in the access, collection, transfer or commercialisation of genetic resources or in developing measures and policy related to genetic resources must provide with its application information, as specified in Annex 4 to this Regulation, on its legitimate interest in developing and overseeing a combination of procedures, tools or mechanisms, which, when effectively implemented by a user, enables that user to comply with the obligations provided for in Articles 4 and 7 of Regulation (EU) No 511/2014.
3. The Minister for the Environment must acknowledge receipt of an application within 20 working days from the date of receipt of the application. The Minister for the Environment must provide the applicant with an indicative time limit within which a decision on the application will be taken. The Minister for the Environment must inform the applicant if additional information or documentation is required in order to carry out the assessment of the application.
4. The applicant must submit to the Minister for the Environment any additional information and documentation requested without undue delay.
5. The Minister for the Environment must inform the applicant each time of any revision to the indicative time limit within which a decision on the application will be taken due to the necessity to obtain additional information or documents for the assessment of the application. The Minister for the Environment must inform the applicant in writing of the status of the assessment of the application at least every six months.”.

(8) For Article 9 substitute-

“Article 9

Recognition and withdrawal of recognition as best practice

1. Where the Minister for the Environment decides to grant recognition as best practice under Article 8(2) of Regulation (EU) No 511/2014 or to withdraw the recognition of best practice under Article 8(5) of that Regulation, the Minister for the Environment must inform the association of users or the other interested parties of that decision without undue delay.
2. The Minister for the Environment must state reasons for the decision to grant recognition as best practice or to withdraw the recognition of best practice, and must publish that decision in the register established under Article 8(6) of Regulation (EU) No 511/2014.”.

(9) For Article 10 substitute-

“Article 10

Information on subsequent changes to a recognised best practice

Where the Minister for the Environment is informed, pursuant to Article 8(3) of Regulation (EU) No 511/2014, of any changes or updates made to a recognised best practice, the Minister for the Environment must assess whether the changed or updated combination of procedures, tools or mechanisms still enables users to comply with their obligations provided for in Articles 4 and 7 of Regulation (EU) No 511/2014.”.

(10) In Article 11-

- (a) in each place it occurs, for “Commission” substitute “Minister for the Environment”;
- (b) delete paragraphs 3 and 4;
- (c) in paragraph 5-
 - (i) insert “and assist” after “co-operate with”;
 - (ii) delete “and assist it in its actions”.

(11) In Article 12, for “Commission” substitute “Minister for the Environment”.

(12) After Article 13, delete the words from “This Regulation” to “Member States.”.

(13) In Annex 1, in Part B, point (d), delete the words from “, and about” until the end.

(14) In Annex 2, in Part B, delete paragraph 5.

(15) In Annex 3-

- (a) in Part A, in paragraphs 3(b) and 3(c), in each place it occurs, for “Union” substitute “Gibraltar”;
- (b) in Part A, in paragraphs 3(d), 3(e) and in footnote 2, in each place it occurs, for “the Union” substitute “Gibraltar”;
- (c) in Part B-
 - (i) in paragraph 2, for “registration code” substitute “details”;
 - (ii) in paragraph 3-
 - (aa) after “511/2014” insert “, or other recognised best practice”;
 - (bb) for “registration number” substitute “identifying details of that best practice”;
 - (iii) for paragraphs 5 and 6 substitute-
 - “5. Any markets outside Gibraltar on which the product has been placed:”.

(16) In Annex 4-

- (a) in paragraph 3, point (a), for the words from “Member State” until the end substitute “competent authority”;
- (b) delete paragraphs 8 and 9.

Dated: 24th December 2020.

PROF J CORTES,
Minister with responsibility for the Environment.