

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

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LEGAL NOTICE NO. 512 OF 2020.

## EUROPEAN UNION (WITHDRAWAL) ACT 2019

### LAW ENFORCEMENT AND SECURITY (AMENDMENT ETC.) (EU EXIT) (EXCHANGE OF INFORMATION AND INTELLIGENCE BETWEEN LAW ENFORCEMENT AUTHORITIES AND DISCLOSURE IN FOREIGN PROCEEDINGS) REGULATIONS 2020

In exercise of the powers conferred upon her by sections 11, 15 and paragraph 1 of Schedule 3 of the European Union (Withdrawal) Act 2019, and section 25 of the European Union (Withdrawal Agreement) Act 2020, the Minister has made the following Regulations-

#### **Title.**

1. These Regulations may be cited as the Law Enforcement and Security (Amendment etc.) (EU Exit) (Exchange of Information and Intelligence between Law Enforcement Authorities and Disclosure in Foreign Proceedings) Regulations 2020.

#### **Commencement.**

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

#### **Introductory.**

3.(1) In these Regulations, the expressions which are defined in regulation 2 of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 (interpretation) have the meanings given in that regulation (disregarding for this purpose the revocation made by regulation 4 (revocation of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014).

(2) Regulation 3 of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 continues to apply for the purposes of any provision of the Regulations which is continued by these Regulations.

**Revocation of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014.**

4. Subject to regulations 5 to 8 (transitional and saving provisions), the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 are revoked.

**Transitional provision – requests for information or intelligence received before commencement.**

5.(1) This regulation applies where—

- (a) a request referred to in regulation 3(1) of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 (duty to provide information or intelligence) was made to a Gibraltar competent authority before the commencement of these Regulations, and
- (b) the information or intelligence was not provided before commencement.

(2) The following provisions of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 continue to have effect in relation to the request, subject to the modification in subregulation (3) (and see Article 63(1)(d) and Title VII of Part 3 of the withdrawal agreement, Article 52(b) and Title IV of Part 3 of the EEA EFTA separation agreement and sections 10A to 10C of the European Union (Withdrawal) Act 2019) —

- (a) regulation 3;
- (b) regulation 4;
- (c) regulation 7(2) and (6) (requirements for the sharing of information or intelligence);
- (d) regulation 8 (reasons to withhold information or intelligence).

(3) The modifications are that—

- (a) subregulation (2) of regulation 7 is to be read as if the words “in accordance with the Framework Decision” were omitted;
- (b) subregulations (3) and (4) of regulation 8 (reasons to withhold information or intelligence) are to be read as if the words “under the Framework Decision” in each paragraph were omitted.

(4) The provisions referred to in subregulation (2) are to be construed as if Gibraltar continued to be within the European Union.

**Saving provision – information and intelligence supplied before commencement or under Article 63(1)(d) of the withdrawal agreement or Article 52(b) of the EEA EFTA separation agreement.**

6.(1) This regulation applies in relation to information or intelligence supplied to a Gibraltar competent authority before commencement in accordance with the Framework Decision or supplied on or after commencement in accordance with Article 63(1)(d) of the withdrawal agreement or Article 52(b) of the EEA EFTA separation agreement.

(2) The following provisions of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 continue to have effect in relation to the information or intelligence, subject to the modification in subregulation (3) (and see Article 63(1)(d) and Title VII of Part 3 of the withdrawal agreement, Article 52(b) and Title IV of Part 3 of the EEA EFTA separation agreement and sections 10A to 10C of the European Union (Withdrawal) Act 2019) —

- (a) regulation 7(1), (4) and (5) (requirements for the sharing of information or intelligence);
- (b) regulation 8 (reasons to withhold information or intelligence), in so far as it applies for the purposes of regulation 7(5).

(3) The modification is that regulation 8(3) and (4) are to be read as if the words “under the Framework Decision” in each were omitted.

(4) The provisions referred to in subregulation (2) are to be construed as if Gibraltar continued to be within the European Union.

**Saving provision – representations concerning use of information or intelligence.**

7.(1) This regulation applies where the Gibraltar competent authority has imposed conditions on the use of information or intelligence under regulation 7(2) of the Exchange of Information and Intelligence between European Law Enforcement Authorities Regulations 2014 (requirements for the sharing of information or intelligence), whether before commencement day or (in a case to which regulation 5 (transitional provision) applies) on or after commencement.

(2) Regulation 7(3) continues to have effect in relation to the use of the information or intelligence.

**Saving provision – information obtained by a Gibraltar member of an international joint investigation team.**

8.(1) This regulation applies in relation to information referred to in regulation 11(1) of the Joint Investigation Team Regulations 2014 which was lawfully obtained by a Gibraltar member (within the meaning of that regulation) before commencement.

(2) Regulation 11 of the Joint Investigation Team Regulations 2014 continues to have effect in relation to the information.

(3) The provisions referred to in subregulation (2) are to be construed as if Gibraltar continued to be within the European Union.

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

S SACRAMENTO,  
Minister for Justice.