

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 529 OF 2020.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

EUROPEAN INVESTIGATION ORDER (AMENDMENT) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred upon her by sections 11, 15 and paragraph 1 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 European Investigation Order (Amendment etc) (EU Exit) Regulations 2020.

Commencement.

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

Revocation of the European Investigation Order Regulations 2017.

3. The European Investigation Order Regulations 2017 are revoked.

Saving provisions relating to European investigation orders.

Outgoing European investigation orders (other than relating to the temporary transfer of a prisoner or EU prisoner).

4.(1) This regulation applies in relation to a European investigation order transmitted under regulation 9 or 10 of the European Investigation Order Regulations 2017 before commencement day.

(2) Where evidence has been obtained from a participating State pursuant to a European investigation order made or validated under these Regulations, the evidence obtained—

- (a) may be used or disclosed for the purposes of the investigation or proceedings in relation to which the order was made or validated;
- (b) may not be used or disclosed for any other purpose, without the consent of the participating State from which it was obtained.

Incoming European investigation order (other than relating to a request for the temporary transfer of a prisoner).

5.(1) This regulation applies in relation to a European investigation order received before commencement day by the central authority in Gibraltar, to the extent that the order does not relate to a request for the temporary transfer of a prisoner or an EU prisoner.

(2) The following provisions of the European Investigation Order Regulations 2017 continue to have effect—

- (a) regulations 11 to 26;
- (b) regulations 36 to 56;
- (c) regulations 58 to 65;
- (d) regulation 3 (interpretation) but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) to (c).

(3) See Article 62(1)(1) and Title VII of Part 3 of the withdrawal agreement and sections 10A and 10C of the European Union (Withdrawal) Act 2019.

Transfer of Gibraltar prisoner to assist Member State’s investigation or to participate in proceedings - Gibraltar executing authority.

6.(1) In relation to a relevant temporary transfer or a relevant request the following provisions of the 2017 Regulations continue to have effect—

- (a) regulation 27 (Transfer of Gibraltar prisoner to assist Member State’s investigation or to participate in proceedings - Gibraltar executing authority);
- (b) regulation 33 (duty to deduct time spent in participating Member State);
- (c) regulation 2 but only for the purpose of the other provisions which continue to have effect by virtue of this this sub-paragraph.

(2) In subregulation (1)-

“relevant temporary transfer” means a prisoner temporarily transferred to an issuing State for the purpose of the issuing State’s investigation or proceedings) before commencement day;

“relevant request” means a European investigation order which includes a request for the transfer of a prisoner received by a Gibraltar authority before commencement, regardless of whether that European investigation order was forwarded to the Gibraltar Central Authority before commencement.

- (3) See Article 62(1)(l) and Title VII of Part 3 of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2019.

Transfer of EU prisoner to Gibraltar to assist participating State's investigation - Gibraltar issuing authority.

7. In relation to an EU prisoner temporarily transferred to Gibraltar pursuant to a European investigation order (for the transfer of EU prisoner to Gibraltar to assist participating State's investigation - Gibraltar issuing authority), made and transmitted under the European Investigation Order Regulations 2017 before commencement day, the following provisions of those Regulations continue to have effect—

- (a) regulation 28 (transfer of EU prisoner to Gibraltar to assist participating State's investigation - Gibraltar issuing authority);
- (b) regulation 34 (speciality);
- (c) regulation 2 but only for the purpose of the other provisions which continue to have effect by virtue of this this sub-paragraph.

Transfer of Gibraltar prisoner to participating State to assist Gibraltar investigation.

8. In relation to a relevant temporary transfer or a relevant request before commencement day, the following provisions of the 2017 Regulations continue to have effect—

- (a) regulation 29 (Transfer of Gibraltar prisoner to participating State to assist Gibraltar investigation.);
- (b) regulation 33 (duty to deduct time spent in participating Member State);
- (c) regulation 2 but only for the purpose of the other provisions which continue to have effect by virtue of this this sub-paragraph.

Transfer of EU prisoner to Gibraltar to assist Gibraltar investigation or proceedings.

9. In relation to an EU prisoner temporarily transferred to Gibraltar pursuant to a European investigation order (for the transfer of EU prisoner to Gibraltar to assist Gibraltar investigation or proceedings), made and transmitted under the European Investigation Order Regulations 2017 before commencement day, the following provisions of those Regulations continue to have effect—

- (a) regulation 30 (transfer of EU prisoner to Gibraltar to assist Gibraltar investigation or proceedings);
- (b) regulation 34 (speciality);
- (c) regulation 2 but only for the purpose of the other provisions which continue to have effect by virtue of this this sub-paragraph.

Dated: 24th December 2020

S. SACRAMENTO
Minister for Justice.