

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

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LEGAL NOTICE NO. 530 OF 2020.

## EUROPEAN UNION (WITHDRAWAL) ACT 2019

### MUTUAL LEGAL ASSISTANCE (EUROPEAN UNION) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred upon her by sections 11, 11B, 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 Mutual Legal Assistance (European Union) (EU Exit) Regulations 2020.

#### **Commencement.**

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

#### **Repeal of Part II of the Mutual Legal Assistance (European Union) Act 2005**

3. Part II of the Mutual Legal Assistance (European Union) Act 2005 is repealed.

#### **Saving provisions**

#### **Service of Schengen process in Gibraltar.**

4.(1) This regulation applies in relation to a request for the service of process or a document on a person in Gibraltar received by the Central Authority before commencement.

(2) Sections 5 and 6 of the Mutual Legal Assistance (European Union) Act 2005 shall continue to apply in relation to request to which this regulation applies as if the Schengen Convention continued to apply to Gibraltar.

#### **Outgoing requests (other than relating to the temporary transfer of a prisoner)**

5.(1) This regulation applies in relation to a request transmitted under section 9 or 10 of the Mutual Legal Assistance (European Union) Act 2005 before commencement.

(2) Where evidence has been obtained from a participating State pursuant to such a request, the evidence obtained—

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

**Incoming request (other than relating to a request for the temporary transfer of a prisoner)**

6.(1) This regulation applies in relation to a request under Part II of the Mutual Legal Assistance (European Union) Act 2005 received before commencement 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.

(2) The following provisions of the Mutual Legal Assistance (European Union) Act 2005 continue to have effect—

- (a) sections 12 to 17;
- (b) sections 20 to 22;
- (c) sections 2, 2A, 3 and 4 but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraphs (a) to (b).

**Transfer of Gibraltar prisoner to assist requesting State's investigation or to participate in proceedings - Gibraltar executing authority.**

7. In relation to a prisoner temporarily transferred to a requesting State pursuant to a request under Part II of the Mutual Legal Assistance (European Union) Act 2005, made and transmitted before commencement, the following provisions of the Mutual Legal Assistance (European Union) Act 2005 continue to have effect—

- (a) section 18;
- (b) sections 2, 2A, 3, 12 to 17, and sections 20 to 22 but only for the purpose of the provisions which continue to have effect by virtue of sub-paragraph (a).

**Transitional provision – withdrawal agreement.**

8. See Article 62(1)(a) and Title IV of Part 3 of the withdrawal agreement, Article 50(1) and (3) and Title IV of Part 3 of the EEA EFTA separation agreement and sections 10A to 10C of the European Union (Withdrawal) Act 2019.

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

S SACRAMENTO,  
Minister for Justice.