

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 537 OF 2020.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

TOWN PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (AMENDMENT) (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred upon him by section 11(1) and Schedule 3 to, the European Union (Withdrawal) Act 2019, the Minister has made the following Regulations—

Title.

1. These Regulations may be cited as the Town Planning (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2020.

Commencement.

2. These Regulations come into operation on exit day.

Amendment of the Town Planning (Environmental Impact Assessment) Regulations 2019.

3.(1) The Town Planning (Environmental Impact Assessment) Regulations 2019 are amended as follows.

(2) In regulation 2(1)-

(a) after the definition of “the consultation bodies” insert-

“contracting state” means a party to the Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, Finland, 25 February 1991;”

(b) omit the definition of “the Directive” appearing after the newly inserted definition of “contracting state”;

(c) in the definition of “the public” after the word “practice” insert “of Gibraltar”;
and

(d) in the definition of “the public concerned” substitute “national” with “Gibraltar”.

(3) Delete regulation 2(3).

(4) In regulation 4(2)(b)-

- (a) after “protected” insert “under the Nature Protection Act 1991 and any other domestic legislation;”; and
 - (b) delete all the other words appearing in paragraph (b) up to and including the semi-colon.
- (5) In regulation 5(2)(b) substitute “pursuant to European Union legislation other than the Directive” with “under retained European Union legislation”.
- (6) In regulation 6(3)(b) substitute “other” with “retained”.
- (7) In regulation 8(5)(b) substitute “pursuant to European Union legislation other than the Directive” with “under retained European Union legislation”.
- (8) In regulation 10(3)(c) insert “retained” after “under”.
- (9) Substitute regulation 16(1) and (2) with-
- “16. Where in relation to EIA development there is, in addition to the requirement for an EIA to be carried out in accordance with these Regulations, also a requirement to carry out an assessment on the conservation of natural habitats and of wild fauna and flora and of wild birds under the Nature Protection Act 1991 or some other provision of domestic legislation, the Commission shall, where appropriate, ensure that the assessment and the EIA are coordinated.”
- (10) In regulation 18(3)(c) substitute “Articles 5 to 7 of the Directive” with “these Regulations”.
- (11) In regulation 20-
- (a) in the subheading substitute “Member State” with “contracting state”;
 - (b) substitute all references to “Member State” with “contracting state”;
 - (c) in subregulation (4)(a) substitute “referred to in Article 6(1) of the Directive” with “designated by the contracting state likely to be concerned by the project by reason of their specific environmental responsibilities”; and
 - (d) in subregulation (5) substitute “Article 7(4) of the Directive” with “these Regulations”.
- (12) In regulation 21-
- (a) in the subheading substitute “Member State” with “contracting state”;
 - (b) substitute all references to “Member State” with “contracting state”;

- (c) in subregulation (1) substitute “Article 7(2) of the Directive” and “Article 7(4) of the Directive” with “these Regulations” in both instances; and
 - (d) in subregulation (1)(b) substitute “Article 7(3)(b) of the Directive” with “these Regulations”.
- (13) In regulation 23-
- (a) in the subheading delete “with the European Commission;
 - (b) substitute “16 May 2017” with “1 January 2021”;
 - (c) substitute “European Commission” with “Minister with responsibility for the Environment”; and
 - (d) subparagraph (e) substitute “this Directive” with “these Regulations”.
- (14) In regulation 24-
- (a) in subregulation (1)(a)(ii) substitute “the Directive” with “these Regulations”; and
 - (b) substitute all references to “Member State” with “contracting state”.
- (15) In Schedule 1-
- (a) paragraph 9 substitute-
 - (i) “Annex IIA to Council Directive 75/442/EEC” with “Schedule 12 of the Public Health Act”; and
 - (ii) “Council Directive 91/689/EEC” with “Schedule 11A, Part II of the Public Health Act”;
 - (b) paragraph 10 substitute “Annex IIA to Council Directive 75/442/EEC” with “Schedule 12 of the Public Health Act”; and
 - (c) paragraph 13 substitute “Article 2 point 6 of Council Directive 91/271/EEC” with “regulation 2 under “1 p.e. (population equivalent)” of the Public Health (Urban Waste Water Collection and Treatment) Regulations 1999.
- (16) In Schedule 3, paragraph 2(c)-
- (a) substitute subparagraph (v) with-
 - “(v) areas classified or protected under the Nature Protection Act 1991 and any other domestic legislation;” and

- (b) in subparagraph (vi) after “European Union legislation” insert “as it applied in Gibraltar immediately prior to exit day, or in retained European Union law”.

(17) In Schedule 4-

- (a) in the tail piece to paragraph 5 substitute “at European Union or national level” with “in retained European Union legislation or under the law of any part of Gibraltar”; and
- (b) in paragraph 8-
 - (i) substitute “European Union legislation such as” with “retained European Union legislation such as any law that implemented”; and
 - (ii) substitute “this Directive” with “any law that implemented these Regulations”

Dated: 24th December 2020.

A J ISOLA,
Minister with responsibility for Town Planning.

EXPLANATORY MEMORANDUM

These Regulations are made in exercise of the powers in section 11(1) and Schedule 3 to the European Union (Withdrawal) Act 2019 (“the 2019 Act”) in order to make the necessary changes to domestic legislation governing the process for Environmental Impact Assessment, which arise as a result of the withdrawal of the United Kingdom and Gibraltar from the European Union.