

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4817 GIBRALTAR Thursday 4th February 2020

LEGAL NOTICE NO. 103 OF 2021

EUROPEAN UNION (WITHDRAWAL) ACT 2019

CREDIT INSTITUTIONS (REORGANISATION AND WINDING UP) ACT 2005 (AMENDMENT) (EU EXIT) REGULATIONS 2021

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019, the Minister has made these Regulations—

Title.

1. These Regulations may be cited as the Credit Institutions (Reorganisation and Winding Up) Act 2005 (Amendment) (EU Exit) Regulations 2021.

Commencement.

2. These Regulations are deemed to have come into operation on 1st January 2021.

Amendment of the Credit Institutions (Reorganisation and Winding Up) Act 2005.

3.(1) The Credit Institutions (Reorganisation and Winding Up) Act 2005 is amended as follows.

(2) In section 2—

(a) in subsection (1)—

(i) omit the following definitions—

(aa) “banking consolidation directive”;

(bb) “branch”;

(cc) “directive reorganisation measure”;

(dd) “directive winding-up proceedings”;

(ee) “EEA credit institution”;

(ff) “EEA creditor”;

(gg) “EEA regulator”;

- (hh) “EEA State”;
- (ii) “home state regulator”;
- (jj) “official language”; and
- (kk) “the reorganisation and winding up directive”;

(ii) for the definition of “Gibraltar credit institution” substitute—

““Gibraltar credit institution” means an undertaking whose head office is in Gibraltar with permission under Part 7 of the Financial Services Act 2019 to accept deposits or issue electronic money (as the case may be) but does not include an undertaking which also has permission under that Part to effect or carry out contracts of insurance;” and

(iii) in the definition of “liquidator” omit “, except for the purposes of section 4,”; and

(b) omit subsection (2).

(3) Omit Part 2.

(4) Omit section 10.

(5) In section 11(2), for “licence under the Financial Services (Banking) Act to accept deposits or to issue electronic money as the case may be” substitute “permission under Part 7 of the Financial Services Act 2019 to accept deposits or issue electronic money (as the case may be)”.

(6) Omit section 12.

(7) Omit section 13.

(8) In section 14, in subsection (6) omit “, and that heading must be given in every official language”.

(9) Omit section 15.

(10) Omit section 18.

(11) In the heading of Part 4 omit “: Recognition of EEA rights”.

(12) In section 21, in subsection (1) omit paragraph (c).

(13) For section 22 substitute—

“Applicable law in the winding up of a Gibraltar credit institution.

22. The general law of insolvency of Gibraltar is applicable in a relevant winding up, subject only to the provisions of sections 28, 29, 34 and 35.”.

(14) Omit sections 23 to 27.

(15) In section 29–

(a) in subsection (1)–

(i) omit “Subject to section 33,”; and

(ii) for “regulated market operating in an EEA State” substitute “Gibraltar regulated market”; and

(b) for subsection (2) substitute–

“(2) For the purposes of this section, “Gibraltar regulated market” has the meaning given in paragraph 1(1) of Schedule 2 to the Financial Services Act 2019.”.

(16) Omit sections 30 to 33.

(17) In section 34 omit “and this section is without prejudice to regulations 70 and 73 of the Recovery and Resolution Regulations 2014”.

(18) In section 35 omit “Subject to section 33 and to regulations 70 and 73 of the Recovery and Resolution Regulations 2014,”.

(19) In section 36–

(a) for sub-paragraph (b)(i) substitute–

“(i) with permission under Part 7 of the Financial Services Act 2019 to accept deposits or issue electronic money (as the case may be); and”; and

(b) in paragraph (b)(ii) omit “or an EEA State”.

(20) For section 37, ignoring the heading, substitute–

“37. Section 9 applies to a third country credit institution which is subject to a relevant measure.”.

(21) Omit section 38.

Dated: 4th February 2021.

A J ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These regulations are made under the European Union (Withdrawal) Act 2019 and address failures of retained EU law to operate effectively and other deficiencies arising from Gibraltar's withdrawal from the European Union. The regulations amend the Credit Institutions (Reorganisation and Winding Up) Act 2005.