

Subsidiary Legislation made under s.9(5A).

**European Union (Withdrawal) Act 2019 (Relevant  
Court)(Retained EU Case Law) Regulations 2021**

**LN.2021/123**

*Commencement*

**1.1.2021**

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**ARRANGEMENT OF REGULATIONS.**

Regulation

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**2019-01**

**European Union (Withdrawal)**

**2021/123**

**European Union (Withdrawal) Act 2019 (Relevant Court)(Retained EU Case Law) Regulations 2021**

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*In exercise of the powers conferred on the Minister by section 9(5A) of the European Union (Withdrawal) Act 2019, the Minister has made these Regulations-*

**Title.**

1. These Regulations may be cited as the European Union (Withdrawal) Act 2019 (Relevant Court)(Retained EU Case Law) Regulations 2021.

**Commencement.**

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

**Interpretation.**

3. In these Regulations-

“the 2019 Act” means the European Union (Withdrawal) Act 2019;

“post-transition case law” means any principles laid down by, and any decisions of, a court or tribunal in Gibraltar, as they have effect on or after IP completion day.

**Relevant courts.**

4. For the purposes of section 9 of the 2019 Act, the Court of Appeal for Gibraltar is a relevant court.

**Extent to which a relevant court is not bound by retained EU case law.**

5.(1) A relevant court is not bound by any retained EU case law except as provided in subregulation (2).

(2) A relevant court is bound by retained EU case law so far as there is post-transition case law which modifies or applies that retained EU case law and which is binding on the relevant court.

**Test to be applied.**

6. In deciding whether to depart from any retained EU case law by virtue of section 9(4)(aa) of the 2019 Act and these Regulations, a relevant court must apply the same test as the Judicial Committee of the Privy Council would apply in deciding whether to depart from its own case law.