

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4708 GIBRALTAR Thursday 7th May 2020

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LEGAL NOTICE NO. 175 OF 2020

## FINANCIAL SERVICES ACT 2019

### FINANCIAL SERVICES ACT 2019 (AMENDMENT No. 2) REGULATIONS 2020

In exercise of the powers conferred on the Minister by sections 24, 620 and 627 of the Financial Services Act 2019, the Minister has made these Regulations.

#### **Title.**

1. These Regulations may be cited as the Financial Services Act 2019 (Amendment No. 2) Regulations 2020.

#### **Commencement.**

2. These Regulations come into operation on the day of publication.

#### **Amendment of the Financial Services Act 2019.**

3.(1) The Financial Services Act 2019 is amended as follows.

(2) In section 163, for subsections (2) to (4) substitute—

“(2) If the GFSC has commenced a sanctioning action in respect of that contravention before the repealed enactment is repealed or revoked, subject to subsection (4), that sanctioning action is to continue in accordance with the procedure set out in the repealed enactment.

(3) If the GFSC has not commenced a sanctioning action in respect of that contravention before the repealed enactment is repealed or revoked, subject to subsection (4), any sanctioning action is to be undertaken in accordance with the procedures set out in this Part and Part 28.

(4) Despite any provision in this Act or a repealed enactment to the contrary, in any case to which subsection (2) or (3) applies, the repealed enactment is to apply with any necessary modification so that—

- (a) any decision to impose a sanction or supervisory measure (other than one to which the person concerned has consented) is taken by the DMC as if it were a specified regulatory decision within the meaning of section 24(3); and

(b) the provisions of this Act apply in relation to—

- (i) the publication of the sanctioning action; and
- (ii) the costs of any inspector's report.

(5) For the purposes of this section, a sanctioning action commences—

- (a) on the issue of a warning notice; or
- (b) if the issue of a warning notice has been lawfully dispensed with, on the issue of a decision notice.

(6) Nothing in this section permits the GFSC to impose any penalty or sanction for a contravention of a repealed enactment which exceeds the penalty or sanction which could have been imposed under that enactment for that contravention at the time it occurred.”.

(3) In Schedule 28, for paragraph 7 substitute—

“7.(1) Despite its repeal by this Act, a repealed enactment is to continue to have effect in connection with—

- (a) any investigation or proceedings in respect of an offence under the enactment which is alleged to have been or was committed before its repeal; or
- (b) any supervisory or enforcement activity by the GFSC in respect of any matter to which the enactment relates and which was brought to the GFSC's attention before its repeal.

(2) Any penalty to be imposed for an offence to which sub-paragraph (1)(a) applies must be determined in accordance with the provisions of the repealed enactment and not this Act.

(3) Any penalty or sanction to be imposed for a contravention of a repealed enactment as a consequence of supervisory or enforcement activity to which sub-paragraph (1)(b) applies must be determined in accordance with section 163.”.

Dated: 7<sup>th</sup> May 2020.

A J ISOLA,  
Minister with responsibility for financial services

**EXPLANATORY MEMORANDUM**

These Regulations amend the Financial Services Act 2019. They give further effect to the transitional provisions in respect of the imposition of penalties and other sanctions for offences and contraventions of enactments repealed by that Act.