

# PREPARING FOR A NO DEAL BREXIT

**GET READY**



HM Government  
of Gibraltar

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# INTRODUCTION



This booklet contains information which will help you to plan for a No Deal Brexit.

The Government made it clear in August that we intended to intensify our public information campaign. This included the distribution of this booklet and the opening of a Brexit Information Office.

It is important to bear in mind that the political situation in the United Kingdom continues to be very fluid at the time of compiling the information contained in these pages. This means that the progress of events could have a bearing on the advice given.

There could be a Brexit with a Withdrawal Agreement. If this happens the position of Gibraltar is protected with the benefit of a transition.

There could also be a Brexit with no agreement. This is what is known as a No Deal Brexit.

The Westminster Parliament has legislated to prevent a No Deal Brexit by calling for an extension until 31 January 2020 in the event that a new agreement has not been concluded by the end of October.

Indeed, there could be no Brexit at all, following a referendum, a general election or the revocation of Article 50.

The departure of the UK and Gibraltar from the European Union, in whatever form this may take, will bring with it a number of challenges. It needs to be understood that once we are no longer part of the club, we will be subject to a new regime where things are done differently.

This will affect citizens and businesses.

It does not mean that there are no solutions, but rather that processes and procedures will be different from those that we are currently used to.

The United Kingdom and Gibraltar Governments continue to work closely in order to mitigate the impact of those changes. However, it needs to be understood that the changes will come in the event of our EU exit.

The preferred position of the Government of Gibraltar is to remain in the European Union. This is in line with the democratically expressed view of the people of Gibraltar where 96% chose to remain in the 2016 referendum.

However, we have spent a considerable amount of time and resources working on two different work-streams.

The first is preparing to leave with an agreement and the second, preparing to leave without one.

It is important to make the point again that this planning continues to take place against the background of political uncertainty outside Gibraltar.

There have been detailed briefings provided to the Members of the Brexit Select Committee of the Gibraltar Parliament and to the Leader of the Opposition. The Government's plans have been explained to organisations like the Chamber of Commerce, the Gibraltar Federation of Small Businesses, the Hindu Merchants' Association, the Trade Unions, the Environmental Safety Group and the Gibraltar Betting and Gaming Association.

In a cross-Government effort, the Department of the Environment and HM Customs alone have held over ninety meetings on Brexit with food suppliers and importers, freight agents and customs agents including pharmaceutical wholesalers, pharmacies and others.

It is important that businesses and citizens make their own preparations. There may be instances where this will require specialist legal or technical advice.

The Government will continue to release public information in a way that does not cause alarm or panic to the general population.

The message is to prepare and not to panic.



The Hon Dr Joseph Garcia  
Deputy Chief Minister and  
Minister with responsibility for work related to  
Gibraltar's EU departure

# PART 1: BACKGROUND INFORMATION

## 1.1 Political Background: Brexit

### The EU Referendum

On the 23 June 2016, citizens of the United Kingdom and Gibraltar were asked to decide, in a referendum, whether the United Kingdom should remain a member of the European Union. 95.9% of the votes cast in Gibraltar were in favour of retaining EU membership. However, the combined result across the UK was in favour of the UK leaving the EU with 51.9% voting to leave.

On 29 March 2017 the UK formally notified the European Council of its intention to leave the EU by triggering Article 50 of the Treaty on European Union. In the meantime, EU law continues to apply to the UK and Gibraltar until withdrawal takes effect.

### The Withdrawal Agreement

After months of negotiations, on 25 November 2018 the European Council and the then UK Prime Minister were able to politically endorse the terms of an agreement providing for the UK and Gibraltar's withdrawal from the EU. Negotiators also agreed a Political Declaration setting out the framework for the future relationship between the EU and the UK. Describing how the UK would approach discussions on its future relationship with the EU, the UK Government has confirmed that it will seek to negotiate future trade and other arrangements with the EU which would work for all of the British family of nations, including Gibraltar.

Subject to its ratification, the agreement provided for the UK and Gibraltar's orderly departure from the EU on 29 March 2019. The agreement also allowed for a transition period designed to allow the UK and the EU time to negotiate a new future relationship and give citizens and businesses time to adjust to new legal frameworks. The transition period was set to end on 31 December 2020 although it can, by agreement, be extended by a period of up to 1 or 2 years to be decided by 30 June 2020. Gibraltar would also have the benefit of this transition period and transitional arrangements would apply to it. Throughout the transition period EU law would continue to apply to the UK and Gibraltar largely as it does now. Therefore, throughout this period, there would be no practical changes to the way businesses established in Gibraltar trade with the EU or to the rights and protections afforded to Gibraltarians as EU citizens. The status quo would therefore remain until the end of this period which could potentially end as late as 31 December 2022.

### Ratification

The politically endorsed Withdrawal Agreement is yet to enter into effect as it has not yet been ratified by either the EU or the UK Government and the agreement is yet to receive the approval of the UK Parliament.

## **Extensions to the Article 50 period**

Since the UK Parliament's approval of the Withdrawal Agreement has not been forthcoming and upon the UK Government's request, the EU agreed to delay the date of the UK's departure from the EU to 12 April 2019. Upon receiving a further request for an extension of time, EU leaders agreed to again delay the date of withdrawal until 31 October 2019.

## **The possibility of a "No-Deal" Brexit**

Unless the UK Parliament approves the Withdrawal Agreement before 31 October 2019, and unless the EU and the UK ratify the Withdrawal Agreement before then, the UK and Gibraltar will leave the EU without an agreement on 31 October 2019. EU law would stop applying to the UK and Gibraltar as from that date and neither the UK nor Gibraltar would have the benefit of the transition period described above.

In the meantime, the UK Prime Minister, Boris Johnson, has said that he is committed to renegotiating the Withdrawal Agreement with the EU in terms which would command the approval of the UK Parliament. But with that having been said, the Prime Minister has also stated that it remains his intention to take the UK and Gibraltar out of the EU on 31 October 2019 regardless of whether or not a new deal can be agreed.

The UK and the Government of Gibraltar continue to work closely together in order to mitigate the impact that will be brought about by the departure of the United Kingdom and Gibraltar from the EU. It needs to be understood that once EU law stops applying to Gibraltar, Gibraltar will be subject to a new regime where things are done differently. This will affect citizens and businesses. As such, a considerable amount of the Government of Gibraltar's time and resources have been spent working on two different work-streams. The first is preparing to leave with an Agreement and the second on mitigating to the maximum extent possible the effects of a "No-Deal" Brexit. Planning for both work-streams continues to take place against the background of political uncertainty outside Gibraltar.

## **Purpose**

The purpose of this document is to explain to the public the potential effects of a "No-deal" Brexit on Gibraltarian citizens and business as well as the contingency plans that the Government of Gibraltar has put into effect in order to manage the UK and Gibraltar's departure from the EU without an agreement.

## 1.2 The Border

The Government of Gibraltar has maintained from the outset of the Brexit process that the main issues that arise for Gibraltar from its withdrawal from the EU are linked to the future operation of the land border with Spain.

The Government of Gibraltar has been working on different options in close cooperation with the United Kingdom. These options logically entail discussion with the European Union and with the Spanish Government. The potential effects of a No Deal Brexit on the way in which people cross the land border with Spain or on the manner in which goods are traded across the border are explained in the paragraphs below.

## 1.3 Reasonable Worst Case Scenario

Central to the Government of Gibraltar's work has been the need to plan towards a Reasonable Worst Case Scenario (RWCS) which has been identified as follows:

*"A hard border scenario, denotes a border that is operated by Spain in a manner that would make daily movement of persons and goods abnormally disruptive. It would be characterised by systematic severe delays both for pedestrian and vehicular traffic. Delays on pedestrians and private vehicles of 2 hours or more or delays of over 6 hours for commercial vehicles would constitute a hard border if applied consistently.*

*In a no deal scenario, rights that the EU Commission will give to UK nationals and businesses will not directly apply to Gibraltar."*

## 1.4 Risk Assessments and Planning Assumptions Overview

HM Government of Gibraltar has adopted a risk-based approach to its No Deal Brexit planning.

**Contingency Planning:** The risk assessment process has required planning teams to identify and understand the significance of potential events on the basis of their likelihood and importantly, their impact. Planning and preparing for risks and their consequences before they arise are essential if we are to properly mitigate against any possible disruption to our way of life. The Government of Gibraltar's approach to planning for a No Deal Brexit has been to develop response plans against the anticipated consequences arising from our departure from the EU. To assist the planning teams to achieve this, HM Government of Gibraltar has listed a number of planning assumptions to which the planning teams have been required to consider in their work. It should be noted that these are planning assumptions the Government of Gibraltar has made and it is therefore not necessarily the case that the assumptions listed below will materialise:

- *Land Border Checks:* Reasonable Worst Case Scenario (RWCS) is based on 2 hours (private vehicles and pedestrians) and 6 hours for commercial vehicles. This will lead to significant traffic congestion problems across most of Gibraltar's northern road network.
- *Border Inspection Posts (BIPs):* Products requiring sanitary and phytosanitary checks will be processed via Border Inspection Posts (BIPs). The border at La Linea de la Concepcion is currently not designated as a BIP. This is likely to result in these types of goods having to

arrive via sea. Approximately 20-30 Large Goods Vehicles (LGVs) daily may be affected. This may cause disruption to the supply chain and may lead to traffic congestion in the area of North Mole Road / Waterport Road / Europort Road.

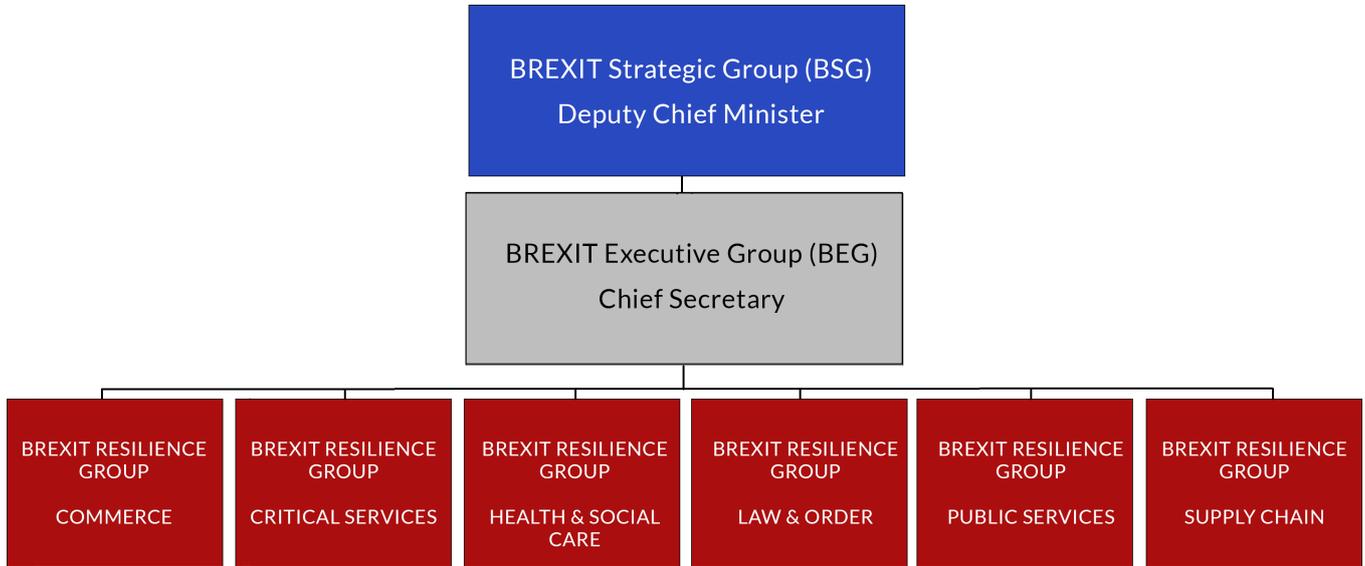
- *Congestion:* Gibraltar-wide traffic congestion with resultant service delivery (including Emergency Services) and supply chain disruption.
- *Frontier Workers:* Increased checks at the border will affect Frontier Workers' ability to reach their workplace during the peak periods (6.30 – 9.30 am). They will also experience significant delays on the return journey (likely 4 – 10pm). Longer-term, staff retention issues may be experienced.
- *Travel across the border:* The number of Gibraltar-based citizens travelling to / from Spain for routine business / leisure is likely to fall in the weeks following 31 October 2019.
  - The number of foreign-registered vehicles entering Gibraltar for re-fueling is likely to fall in the weeks following 31 October 2019.
  - Tourist numbers travelling to Gibraltar via the land border by vehicle is likely to fall in the weeks following 31 October 2019. A resultant increase could however be experienced for tourists crossing the land border on foot.
- *EU Contingency Measures:* Those which specifically exclude Gibraltar will not apply to Gibraltar.
- *Resilience :* Emergency Services and other Responding Partners must maintain sufficient resilience to deal with at least one concurrent major incident.
- *Relocations:* Increased numbers of Gibraltarians residing in Spain may consider relocating to Gibraltar. This could place increased pressure on some of HM Government of Gibraltar service providers (e.g. the Housing Department).
- *Waste:* Disruption to current arrangements for waste management may be experienced.



Picture - A roll-on/roll-off ramp is currently being constructed to easily allow vehicles to drive on and off ferries.

## 1.5 HM Government of Gibraltar – Brexit Command & Control (C2) Structure

The Brexit C2 structure was implemented to ensure all Brexit-related activity is strategically directed and coordinated at all levels. The 3-tier structure ensures that all aspects of planning and preparations are appropriately managed and coordinated for a No Deal EU exit.



Meeting of the Brexit Strategic Group

## 1.5.1 Brexit Strategic Group (BSG)

The Brexit Strategic Group is chaired by the Deputy Chief Minister and sits at the highest level (Tier 1) of Gibraltar's Brexit policy and strategy. BSG is responsible for setting overall policy and direction. Its objectives are as follows:

- Setting strategic objectives.
- Minimise the risk to the transport network (people, vehicles (private and commercial) as a result of delays at the land border.
- Minimise disruption to the health and social care system.
- Minimise disruption to the supply chain particularly medical, food and other key supplies.
- Maintain critical assets and national infrastructure and work to support the continued delivery of all critical services and systems underpinned by appropriate business continuity arrangements.
- Maintain resilience in the Public Services.
- Minimise the risk of public disorder and maintain the safety of those living, working or visiting Gibraltar and the protection of property.
- Through a coordinated communications strategy, ensure the public are given key messages to facilitate the key objectives of this strategy and to provide reassurance.
- Work closely with all Government of Gibraltar departments and other partners to ensure a joined-up and coordinated approach to dealing with a potential incident.
- To support the local business economy.
- Analysing and assessing all Brexit-related information which may have an impact on Gibraltar.
- Agreeing Brexit Contingency Plans for the delivery of HM Government of Gibraltar objectives.
- Agreeing Brexit-related media strategy.
- Ensuring coherence.

## 1.5.2 Brexit Executive Group (BEG)

The BREXIT Executive Group is chaired by the Chief Secretary and sits at Tier 2 of Gibraltar's BREXIT policy and strategy. BEG is responsible for the development of tactical options, to provide subject matter expert (SME) advice up to the BSG and coordinate plans and policy implementation as directed by the BSG. Their objectives are as follows:

- Advise the BSG on all BREXIT-related issues and risks.
- Disseminate relevant information.
- Direct the formulation of plans to implement the strategic direction from the BSG, ensuring commonality of purpose and coherence of effort.
- Direct and coordinate the BREXIT Resilience Groups. Review and elevate the groups' advice and identified risks to BSG as required.



**Meeting of the BREXIT Executive Group**

### 1.5.3 Brexit Resilience Groups (BRG)

The BREXIT Resilience Groups sit at Tier 3 level and are responsible for specific functional areas. Their role is to identify, assess and manage risks associated with a potential 'No-Deal' BREXIT scenario. Specific group objectives are as follows:

- Advise and inform the BEG on all key Brexit-related issues and risks.
- To identify and assess risks that need to be mitigated and determine how this is best achieved.
- To set up and maintain a register of Brexit-related Risks.
- To undertake specific areas of work and agree the output and timeframe for completion.
- To develop joint contingency plans for identified risks and establish a programme of review.
- To ensure developed/reviewed plans are presented to the Brexit Executive Group for approval.
- Where necessary, develop appropriate training followed by testing of capabilities within joint contingency plans. This may be achieved through the conduct of Discussion / Table-Top Exercises.
- To provide a weekly report to the BEG by completing the relevant part of the Common Operating Picture. At every meeting the BEG will be provided with a report from the BRG summarising:
  - Key issues / risks / impact areas.
  - Work performed (and comparison with work planned).
  - Any resource issues affecting the delivery of objectives.

# PART 2 – GETTING READY: INDIVIDUALS AND FAMILIES

## 2.1 Passports

If the UK leaves the EU without a deal, British passport holders, including holders of passports issued by Gibraltar, will be considered third country nationals by countries within the Schengen area including Spain.

According to the Schengen Border Code, third country passports must:

- Have been issued within the last 10 years on the date of arrival in a Schengen country, and
- Have at least 3 months validity remaining on the date of intended departure from the last country visited in the Schengen area. Because third country nationals can remain in the Schengen area for 90 days (approximately 3 months), the actual check carried out is that the passport has at least 6 months validity remaining on the date of arrival.

Adult British passport holders planning to travel to the Schengen area after 31 October 2019 must make sure their passport is no older than 9 years and 6 months and has at least 6 months validity remaining on the date of arrival. For example, if you intend to travel to the Schengen area on 1 November 2019, your passport should have an issue date on or after 1 May 2010 and a validity remaining of at least 6 months.

Under-16s holders of a 5-year British child passport must check the expiry date and make sure that there will be at least 6 months validity remaining on the date of travel. For example, a child planning to travel to the Schengen area on 1 November 2019 should have a passport with an expiry date on or after 1 May 2020.

If you plan to travel to the Schengen area after 31 October 2019, we recommend that you use the UK Government's online calculator to check whether you need to renew your passport before travelling. This can be accessed online on:

<https://www.gov.uk/check-a-passport-for-travel-to-europe>

The following countries are part of the Schengen area: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

Passport holders are reminded to check the entry requirements for other countries that are in the EU but not in the Schengen area.

For further information please contact: Passport Section, Civil Status & Registration Office: +350 20051727, [passports.csro@gibraltar.gov.gi](mailto:passports.csro@gibraltar.gov.gi)

Passport application forms are available online from the Civil Status & Registration Office portal at [www.gibraltar.gov.gi](http://www.gibraltar.gov.gi) and from the Passport Section, Civil Status & Registration Office, Joshua Hassan House, Line Wall Road. Counter hours are from 8:30am to 3:00pm, Monday to Friday.

## 2.2 Identity Cards

The United Kingdom has informed the Government of Gibraltar that, whether we are in a Deal or a No Deal scenario, the situation for Gibraltar ID Card holders will be the same as now until the end of 2020. This means that Gibraltarians will continue to be able to enter the UK using their Gibraltar ID Card until then.

With regard to travel to the EU Schengen area, including Spain, the public is reminded that in the event of a No-Deal Brexit the use of Gibraltar ID cards for EU travel purposes may no longer be allowed after 31 October 2019.

The Government of Gibraltar therefore urges all citizens who are not in possession of a valid passport to make arrangements to obtain one in order to travel to Spain or elsewhere in the Schengen area after 31 October 2019.





HM Government  
of Gibraltar

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**GET READY**

**BREXIT  
INFORMATION  
OFFICE**

**323 Main Street**

## 2.3 Pet Passports

This advice sets out how the arrangements that allow pet owners to travel to and from the EU with pets (cats, dogs and ferrets) would change if we leave the EU on 31 October 2019 without a deal. It explains what pet owners would need to do to prepare their pets for travel, and what Official Veterinarians (OVs) would need to do to ensure our pet owners travelling with their pets continue to meet the requirements of the EU pet travel scheme.

### Before 31 October 2019

Under the EU Pet Travel Scheme, owners of dogs, cats and ferrets can travel with their animals to and from EU countries provided they hold a valid EU pet passport. Before a pet can travel from Gibraltar to an EU country for the first time, it must be taken to an Official Veterinarian at least 21 days before travel. The Official Veterinarian will ensure the animal has a microchip and rabies vaccination, before issuing an EU pet passport, which remains valid for travel for the pet's lifetime or until all of the treatment spaces are filled.

*Dogs returning to Gibraltar from countries that are not free from Echinococcus multilocularis (a type of tapeworm) must have an approved tapeworm treatment administered by a vet between one and five days before entering Gibraltar.*

### After 31 October 2019 if there's no deal

If we leave the EU on 31 October 2019 with no deal, the United Kingdom would become a third country for the purposes of the EU Pet Travel Scheme. However, it should be noted that Gibraltar is a Part 1 listed third country already for the purposes of this Scheme. This means that Gibraltar operates, and will continue to operate after 31 October 2019, under the same EU Pet Travel Scheme rules as EU Member States. Therefore, pets should continue to be able to travel from Gibraltar to the EU subject to owners obtaining new format pet passports.

### Further information

Further details with respect to applications for new pet passports and further guidance in general can be obtained from official veterinarians authorised to deal with pet travel, pet carriers and the industry.

These are:

Gibraltar Veterinary Clinic

Quirino Veterinary Clinic

## 2.4 Mobile Roaming

In the event that we leave the EU without a deal on 31 October 2019, the costs that EU mobile operators would be able to charge our operators for providing roaming services would no longer be protected by EU law. This would mean that surcharge-free roaming when you travel to the EU could no longer be guaranteed.

Leaving without a deal would not prevent Gibraltar mobile operators making and honouring commercial arrangements with mobile operators in the EU - and beyond the EU - to deliver the services their customers expect, including roaming arrangements. The availability and pricing of mobile roaming in the EU would be a commercial question for the mobile operators. As a consequence, surcharge-free mobile roaming in the EU may not continue to be standard across every mobile phone package from that point. Roaming may also be offered with different terms and conditions. This might affect the amount of calls that you can make, texts you can send and data you can consume, including applying limits that are less than the amount available in your bundle when you are in Gibraltar.

However, it should be clarified that surcharge-free roaming for Gibraltar customers may continue across the EU as now, based on operators' commercial arrangements.

In the event that Gibraltar leaves the EU without a deal, user are advised to:



- Check the roaming policies of your mobile operator before you go abroad
  - Consider what your operator is saying about surcharge-free roaming post-EU exit
  - Check your operator's terms and conditions in detail, particularly if you are a regular user of mobile services in the EU
  - Be aware of your rights to change mobile operator (switching)
  - Know how to turn off your mobile data roaming on your mobile device if you're worried about being charged for data usage in the EU
  - Ensure you understand the alternatives to using mobile networks when abroad. Wi-Fi is widely available, which would allow you to make calls, send texts and use data for free or with little charge
- 
- Understand which services might be expensive to use and which are likely to be cheap. For example, streaming live television or sending large video clips (MMS) could be expensive as they use large amounts of data

## 2.5 European Health Insurance Cards

In the event of a No Deal Brexit, Gibraltar European Health Insurance Cards will cease to be valid throughout the European Union. HM Government of Gibraltar advises all its citizens travelling within EU Member States to take out a travel insurance to cover for any eventuality.

If you are taking out travel insurance shortly after we leave the EU, you should make sure you understand the terms and conditions of your travel insurance policy. Also make sure that the policy is sufficient to cover possible disruption.

If you already have travel insurance, your insurer should let you know if there are changes that will affect you after we leave the EU. If you have questions about what your travel insurance policy covers, or whether it covers possible disruption, you may wish to contact your insurer.

HM Government of Gibraltar's advice is that your insurance policy should cover the following:

### Health and medical treatment and emergencies

An emergency in another country can be very expensive. Examples include:

- £20,000: emergency treatment in France with four-night hospital and repatriation to Gibraltar
- £28,000: broken ankle in Cyprus and repatriation to Gibraltar
- £10,000: a fall in Spain, resulting in a broken hip, hospital treatment and flights.

It is your responsibility to ensure you can cover the costs of medical treatment abroad. The right travel insurance will ensure you can do so.

Your travel insurance should cover:

- Emergency medical treatment costs, including hospital charges and ambulance fees
- Returning you home following medical treatment abroad if you cannot use your original ticket
- Reasonable additional transport and/or accommodation expenses for a close relative or friend to stay with you or travel from Gibraltar to escort you if required
- Temporary emergency dental treatment for the relief of immediate pain
- 24 hours' assistance help-lines to offer support and advice about appropriate treatment

It is important to answer any questions from your insurance provider about your medical history fully and honestly (the "pre-existing medical conditions" section of policies). Withholding details of your medical history may mean you are not fully covered.

## 2.5 European Health Insurance Cards continued

If for any reason you have difficulty finding cover for reasons associated with a medical condition, you may wish to contact a specialist provider.

Medical emergency treatment whilst travelling within the UK is covered by a reciprocal agreement that we have with the UK and there would not be a need to have separate medical insurance.



## 2.6 Healthcare

The purpose of this advice is to inform the public of the effect of a No-Deal Brexit on healthcare services provided to

- (1) EU nationals resident or working in Gibraltar;
- (2) Gibraltarian citizens resident or working in the EU or the UK;
- (3) Gibraltarians receiving treatment in Spain, other EU Member States or the UK.

### **If there is no Withdrawal Agreement – No Deal Brexit**

Access to healthcare in the UK would remain unaffected since, following the HMGoG-UK Joint Ministerial Council of 8 March 2018, the UK Government announced that it will maintain the current reciprocal healthcare arrangements between the UK and Gibraltar, so that Gibraltar would be able to continue to refer patients to the UK for elective treatment post-Brexit even in the event of a No Deal.

With respect to access to Spanish healthcare providers, the Spanish Government has, in its own national No-Deal Brexit contingency measures, legislated for a continuation of the status quo for a period of 21 months following the UK and Gibraltar's No-Deal exit from the EU. This is subject to the UK adopting reciprocal legislation. These measures expressly cover Gibraltarians and other persons entitled to healthcare in Gibraltar.

With respect to access to healthcare elsewhere in the EU, the UK Government has proposed to EU Member States that, in a No-Deal scenario, the same healthcare arrangements should be maintained until 31 December 2020 with the aim of minimising disruption to healthcare provision. The UK Government has adopted the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 which will allow it to enter into EU-wide or individual agreements with Member States, to fund and implement comprehensive reciprocal healthcare arrangements after the UK leaves the EU. The Gibraltar Parliament passed equivalent legislation via the Healthcare (International Agreements) and Social Security Coordination Act 2019 so that Gibraltar can be included in any arrangements that the UK enters into.

The Government would advise potentially affected parties that the position in each EU Member State, other than Spain, should be checked individually beforehand.

### **More information**

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

## 2.7 Studying in the UK, the EU and Gibraltar

The purpose of this advice is to provide guidance to students currently enrolled in Higher Education programmes, or looking to enroll in Higher Education programmes, in the UK, the EU or Gibraltar after the UK and Gibraltar withdraw from the EU with or without a deal.

### Existing Position

Gibraltarian students studying in the UK have a right to reside in the UK by virtue of their UK nationality. Other EU citizens have a right to reside in the UK pursuant to EU rules on the free movement of persons. EU citizens studying in Gibraltar have a right to reside in Gibraltar in accordance with the same EU rules.

EU law also prevents discrimination on the basis of nationality. Therefore, Gibraltarians and other EU citizens studying in the UK have the same rights as home students. As such, Gibraltarian students and EU students pay the same fees as home students. The same applies to UK students or students of other EU nationalities studying in Gibraltar.

### In case of a Withdrawal Agreement

If the Withdrawal Agreement enters into effect, the status quo would remain up to the end of the transition period – that being 31 December 2020.

With regard to the position in the UK, following the HMGoG-UK Joint Ministerial Council of 8 March 2018, the UK Government announced that British Citizens resident in Gibraltar would continue to be eligible for higher education home fee status at English Institutions (both during the Implementation Period and afterwards). Moreover, HMGoG has entered into a reciprocal agreement with the UK which would allow for UK students to benefit from the same advantages when studying at the University of Gibraltar.

Furthermore, HMGoG is in discussions which aim to arrive at similar arrangements with the governments of Scotland, Wales and Northern Ireland for those looking to study in Scottish, Welsh or Northern Irish institutions.

### If there is no Withdrawal Agreement

The arrangements described above with regard to Gibraltar students studying in the UK and UK students studying in Gibraltar would be unaffected by a No Deal Brexit.

Therefore, should there be a No Deal exit on 31 October 2019, or after a short extension, students currently enrolled in UK universities would be able to complete their courses under the same conditions as home students. Students looking to study in the UK in future would not be disadvantaged either. The same applies to UK students currently studying at the University of Gibraltar or UK students planning to enroll on a higher education course in Gibraltar.

## 2.7 Studying in the UK, the EU and Gibraltar continued

With regard to very limited number of Gibraltarian students currently studying at institutions elsewhere in the EU, HMGoG would advise those students to check the position in the Member State concerned. In particular, they should establish whether they would need to take any steps to register as residents in the Member State where they are studying in the event of a No Deal Brexit. Individual Member States will adopt different rules in this regard.

With respect to Spain, the Spanish Government has provided in its No Deal Brexit legislation for students studying in Spanish universities, or looking to study in Spanish universities, after having completed secondary school education in Gibraltar, to be able to do so under the same conditions as EU students for the 2019/2020 and 2020/2021 academic years.

Separately, the EU has adopted a measure providing for the continuation of ongoing learning mobility activities under the Erasmus+ programme. The measure would ensure that students and trainees abroad, who are already participating in Erasmus+, can complete their studies and continue to receive relevant funding or grants. It is expected that Gibraltar students currently participating in Erasmus+ programmes will be covered by this measure.



Further information, or answers to specific queries can be sought from the Department for Education ([info.edu@gibraltar.gov.gi](mailto:info.edu@gibraltar.gov.gi)) or University of Gibraltar ([info@unigib.edu.gi](mailto:info@unigib.edu.gi)).

## 2.8 Recognition of professional qualifications

If the UK and Gibraltar leave the EU without a deal the requirements for how professional qualifications will be recognised will change.

### Existing Position

EU Directive 2005/36/EC on the recognition of professional qualifications (the MRPQ Directive) provides a reciprocal framework of rules which enables EEA and Swiss nationals to have their professional qualifications recognised in a state other than the one in which the qualification was obtained. In addition to the EU, the MRPQ Directive applies to Iceland, Liechtenstein and Norway and to Switzerland by virtue of it being annexed to the EEA Agreement and the Agreement between the European Community and its Member States and the Swiss Confederation on the free movement of persons. It provides several routes to recognition, including:

- Automatic recognition based on minimum training conditions or professional experience (recognition based on minimum training conditions applies to: doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects);
- The “general system” under which, subject to certain exceptions, regulators must not refuse, on grounds of inadequate qualifications, applicants who seek to practise a regulated profession in Gibraltar if they hold the qualifications required by an EEA State or Switzerland. In certain cases, regulators may require an applicant to complete either an aptitude test or an adaptation period before allowing the applicant to practise the regulated profession in Gibraltar;
- A mechanism for those who want to work on a temporary or occasional basis in another EEA State or Switzerland, including the role of the regulator and the procedures and formalities with which an applicant must comply.

The MRPQ Directive applies in general to regulated professions unless otherwise stated in the MRPQ Directive. A non-exhaustive list of professions covered by the MRPQ Directive is available in the European Commission’s database of regulated professions.

The MRPQ Directive also provides rules for recognition of non-EEA and non-Swiss qualifications held by EEA or Swiss nationals.

The MRPQ Directive has been implemented in Gibraltar by the Qualifications (Right to Practise) Act 2009 (the “Act”).

### If there is a Withdrawal Agreement

If the Withdrawal Agreement enters into effect the status quo would remain up to the end of the transition period – that being 31 December 2020.

### If there is no Withdrawal Agreement

HM Government of Gibraltar will continue to apply the framework contained in the MRPQ Directive which will become retained EU law when Gibraltar leaves the European Union.

## 2.8 Recognition of professional qualifications continued

It does not, in the short term, plan to make any significant amendments to the Act. Gibraltar will therefore continue to recognise the qualifications of EEA and Swiss professionals in accordance with the Act.

Gibraltarians seeking recognition to work in regulated professions in the EEA or Switzerland should check the host state's policies. The European Commission has stated that decisions on the recognition of UK qualifications in EU countries before exit day are not affected and it has published guidance in the Commission's Brexit Professional Qualification preparedness notice to this effect.

Regarding the position in Spain, HM Government of Gibraltar should underline that, as UK nationals, Gibraltarians will be covered by contingency measures adopted by the Government of Spain providing for the continued recognition of professional qualifications obtained in either the UK or Gibraltar.

### Specific Guidance for Lawyers

The qualification recognition arrangements under the MRPQ Directive cover a wide range of lawyers. In addition to this framework, there is a specific framework setting out rights for listed lawyers to provide legal services and to establish on a permanent basis in EEA States and Switzerland other than the one in which the qualification was obtained.

This framework takes the form of two Directives:

- The Lawyers' Services Directive (Directive 77/249/EEC) – which allows specified lawyers to provide legal services on a temporary basis in a Member State other than the one in which they qualified. It clarifies the professional and regulatory rules applicable, the professional title they should use and the conditions for providing services
- The Lawyers' Establishment Directive (Directive 98/5/EC) - a reciprocal arrangement which allows specified lawyers in one Member State to establish and practise permanently in another Member State, under their existing title, and the conditions for doing so (Registered European Lawyers). It also allows lawyers that are practising in another Member State to be admitted to the profession in that Member State, after 3 years of practice without having to go through the usual qualification routes.

This will become retained EU law if the UK and Gibraltar leave the EU without an agreement.

However, in the event of a No Deal Brexit, Gibraltar lawyers practising in other Member States will not have the same rights under these Directives. In such cases, Gibraltar lawyers may only be entitled to the rights granted by the national regulators of the Member States concerned to non-EU lawyers. For lawyers practising in other Member States, more information can be sought from the following guidance published by The Law Society:

<https://www.lawsociety.org.uk/support-services/documents/no-deal-brex-it-providing-legal-services-in-eu-2019/>

## 2.9 Driving Information

HMGoG has issued three Technical Notices explaining the steps that should be taken prior to driving abroad in case of a No Deal Brexit.

By way of further clarification, this Notice provides country specific information regarding individual International Driving Permit requirements. The clarifications provided in this Notice represent the position applicable as of **31 October 2019**.

### Obtaining an International Driving Permit

Individuals can obtain an International Driving Permit (“IDP”) from the Motor Vehicle Test Centre.

IDPs will be issued subject to the payment of a £6.00 fee and applicants must:

- be a resident of Gibraltar;
- have a full Gibraltar driving licence;
- produce two passport size photographs;
- produce proof of residence (Identity card);
- produce an existing driving licence (or a photocopy).

A 1926 IDP will expire after 12 months.

A 1949 IDP will expire after 12 months.

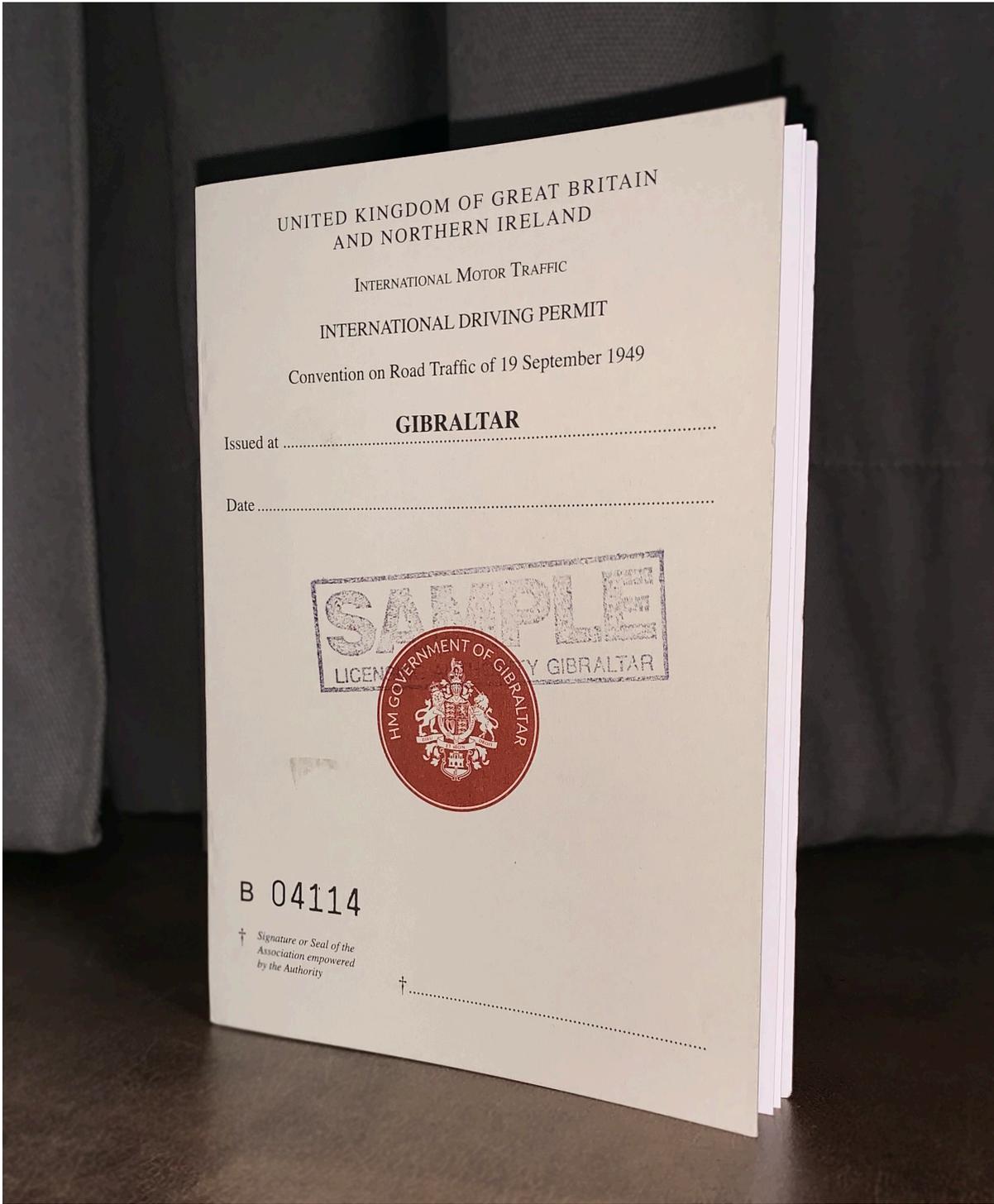
A 1968 IDP will expire after 3 years or once your Gibraltar driving licence expires, whichever comes first.

Please check the countries below as the position has changed as from 31st October 2019.

If you have obtained a 1949 IDP to drive in a country which is listed as a country requiring a 1968 IDP, please note that the 1949 IDP will no longer be valid for driving in that country and, in case of a No-Deal Brexit, you will need to obtain a 1968 IDP.

The position with respect to Spain has not changed and remains as stated in HM Government of Gibraltar’s last Technical Notice on this subject which is repeated below.

Check which IDP you need.



**International Driving Permits (IDP) can be obtained at the Driver and Vehicle Licensing counters situated at Eastern Beach Road.**

## 2.9 Driving Information continued

### Driving in EU and EEA Countries

#### 1968 IDP:

In case of a No-Deal Brexit you may need a 1968 IDP to drive in these EU/EEA Member States:

Austria	Belgium	Bulgaria	Croatia	Czech Republic
Denmark	Estonia	Finland	France	Germany
Greece	Hungary	Italy	Latvia	Lithuania
Luxembourg	Netherlands	Norway	Poland	Portugal
Romania	Slovakia	Slovenia	Sweden	

#### 1949 IDP:

In case of a No-Deal Brexit you may need a 1949 IDP to drive in these EU/EEA Member States:

- Cyprus
- Iceland
- Malta
- Spain

As previously confirmed by HM Government of Gibraltar, the Spanish Government clarified on 20 March 2019 that Spain will continue to accept existing driving licenses issued in the United Kingdom and in Gibraltar for a period of nine months from exit day. Therefore, there is no need for an IDP in order to drive in Spain during that time for holders of UK and Gibraltar-issued licenses who live in Spain or who travel to Spain for leisure purposes.

Ireland has ratified the 1949 road traffic convention but does not require foreign drivers to carry an IDP in addition to their driving licence. As such, if you hold a Gibraltar driving licence you will not need an IDP to drive in Ireland as from EU exit day.

#### 1926 IDP:

In case of a No Deal Brexit, you may need a 1926 IDP to drive in Liechtenstein

### Driving in other third countries

In some countries, you will only need to get a permit in certain situations. For example, if you are hiring a car, or if you will be there for more than 30 days.

If you are travelling through more than one country, you might need more than one type of IDP.

If the country you are visiting is not included in the table overleaf, you should check the position with the embassy of the country that you are travelling to. If you are hiring a car, check with your car hire company.

## 2.9 Driving Information continued

Country	Type of IDP required as from 28 <sup>th</sup> March onwards in case of a No-Deal Brexit	Other requirements
Albania	1968	
Algeria	1949	
Argentina	1949	
Armenia	1968	
Australia	1949	
Azerbaijan	1968	
Bahamas	1968	IDP needed for stays longer than 90 days.
Bahrain	1968	IDP needed for car hire, and for stays longer than 90 days. You must get your permit certified by local authorities when you arrive.
Bangladesh	1949	
Barbados	1949	
Belarus	1968	
Benin	1949	
Bosnia and	1968	
Botswana	1949	IDP needed for car hire.
Brazil	1968	<a href="#">You need to get a certified translation of your IDP from the British consulate.</a>
Burkina Faso	1949	
Cambodia	1949	
Canada	1949	
Cape Verde	1968	
Central African	1968	
Chile	1949	
Congo	1949	
Cote d'Ivoire (Ivory	1968	
Cuba	1968	
Democratic Republic	1968	
Dominican Republic	1949	IDP needed for stays longer than 90 days.
Ecuador	1949	
Egypt	1949	
Eswatini (previously Swaziland)	1968	You may need to show an IDP to your insurance company if you're involved in an accident.
Fiji	1949	
French Polynesia	1968	
Georgia	1968	IDP needed for stays longer than 90 days.
Ghana	1949	

## 2.9 Driving Information continued

Guam	1949	IDP needed for stays longer than 30 days. You may need to show an IDP to your insurance company if you are involved in an accident.
Guatemala	1949	
Guyana	1968	
Haiti	1949	IDP needed for stays longer than 90 days.
India	1949	
Iran	1968	
Iraq	1968	
Israel	1968	
Jamaica	1949	
Japan	1949	
Jordan	1949	
Kazakhstan	1968	
Kenya	1968	IDP needed for stays longer than 90 days.
Kuwait	1968	
Kyrgyzstan	1968	
Laos	1949	
Lebanon	1949	
Lesotho	1949	
Liberia	1968	
Madagascar	1949	
Malawi	1949	IDP needed for stays longer than 90 days.
Malaysia (Sabah)	1949	
Mali	1949	
Mexico	1926	
Moldova	1968	
Monaco	1968	
Mongolia	1968	
Montenegro	1968	
Morocco	1968	
Namibia	1949	IDP needed for car hire. You may need to show an IDP to your insurance company if you are involved in an accident.
New Zealand	1949	
Niger	1968	
Nigeria	1949	
North Macedonia	1968	
Pakistan	1968	
Papua New Guinea	1949	IDP needed for stays longer than 30 days.
Paraguay	1949	
Peru	1968	
Philippines	1968	IDP needed for car hire, and for stays longer than 90 days.

## 2.9 Driving Information continued

Qatar	1968	
Russian Federation	1968	
Rwanda	1949	
San Marino	1968	
Saudi Arabia	1968	IDP needed for car hire.
Senegal	1968	
Serbia	1968	
Seychelles	1968	
Sierra Leone	1949	
Singapore	1949	IDP needed for car hire, and for stays longer than 30 days.
Somalia	1926	
South Africa	1968	You may need to show an IDP to your insurance company if you are involved in an accident.
South Korea	1949	
Sri Lanka	1949	<a href="#">As well as the IDP, you must get a Sri Lankan recognition permit from the Automobile Association of Ceylon (AAC) in Colombo.</a>
St. Lucia	1949	Show your Gibraltar driving licence or IDP to the police to get a visitor's licence.
St. Vincent	1949	Show your Gibraltar driving licence or IDP to the police to get a visitor's licence.
Syria	1949	
Tajikistan	1968	
Thailand	1949	
Togo	1949	
Trinidad & Tobago	1949	IDP needed for stays longer than 90 days.
Tunisia	1968	
Turkey	1968	
Turkmenistan	1968	
Uganda	1949	IDP needed for stays longer than 90 days.
Ukraine	1968	
United Arab Emirates	1968	
United States	1949	You may need to show an IDP to your insurance company if you are involved in an accident.
Uruguay	1968	
Uzbekistan	1968	
Vatican City	1949	
Venezuela	1949	
Vietnam	1968	
Zimbabwe	1968	

# PART 3 - GETTING READY: BUSINESSES AND ORGANISATIONS

## 3.1 Data Protection

In the event that the UK and Gibraltar leave the EU on 31 October 2019 without a deal, Gibraltar businesses will need to ensure they continue to be compliant with data protection law.

For Gibraltar businesses that operate only within Gibraltar there will be no immediate change.

For Gibraltar businesses that operate internationally or exchange personal data with partners in other countries, there may be changes that need to be made ahead of the UK and Gibraltar leaving the EU to ensure minimal risk of disruption.

It is important for businesses to review whether they would be affected.

This notice provides more detail about how our data protection law will work in the event that we leave the EU without a deal and includes six step guidance from the Information Commissioner.

### **Amendments to Gibraltar's data protection law in the event that the UK and Gibraltar leave the EU without a deal on 31 October 2019**

Gibraltar has adopted the European Union (Withdrawal) Act 2019, which will retain the GDPR in Gibraltar law. The fundamental principles, obligations and rights that organisations and data subjects have become familiar with will stay the same.

To ensure the Gibraltar data protection framework continues to operate effectively when the UK is no longer an EU Member State, the Government of Gibraltar will make appropriate changes to the GDPR and the Data Protection Act 2004 using regulation-making powers under the EUWA.

These regulations would:

- Preserve EU GDPR standards in domestic law
- Transitionally recognise all EEA countries (including EU Member States) and the UK as 'adequate' to allow data flows from Gibraltar to the UK and to Europe to continue
- Preserve the effect of existing EU adequacy decisions on a transitional basis
- Recognise EU Standard Contractual Clauses (SCCs) in Gibraltar law and give the Information Commissioner the power to issue new clauses
- Recognise binding Corporate Rules (BCRs) authorised before Exit day
- Maintain the extraterritorial scope of the Gibraltar data protection framework

### 3.1 Data Protection continued

- Oblige non-Gibraltar controllers who are subject to the Gibraltar data protection framework to appoint representatives in Gibraltar if they are processing Gibraltar data on a large scale

## 1. Introduction

The free flow of personal data between Gibraltar, the UK and the EU is critical in underpinning an ambitious economic relationship and ongoing security cooperation, and Gibraltar is committed to high data protection standards. The EU will assess Gibraltar's regime with a view to adopting Adequacy Decisions to ensure continuity of data flows.

Likewise, Gibraltar will take steps to facilitate the flow of personal data to the UK and the EU.

In May 2018 the EU's General Data Protection Regulation (GDPR) came into force and Gibraltar's amended Data Protection Act 2004 also came into force.

The EUWA will retain the GDPR in Gibraltar law and gives the Government of Gibraltar the power to make appropriate amendments to ensure that it works effectively in a Gibraltar context.

The Government intends to use these powers to make the necessary amendments to the GDPR and other data protection legislation prior to Exit Day. The vast majority of the changes will involve removing references to EU institutions and procedures that will not be directly relevant when Gibraltar is outside the EU. They will be replaced with terms that make sense in a Gibraltar context.

For example, in general, references to "Union or Member State law" will instead be read as "domestic law", references to some decisions made by the EU Commission will be replaced with references to decisions made by the Government of Gibraltar and so on.

## 2. Key components of the 'No Deal' framework

### 2.1 Data controllers and data subjects

In a 'No Deal' scenario, responsibilities of data controllers in Gibraltar will not change. Data subjects will continue to benefit from the same high levels of data protection as they do now. The same GDPR standards will continue to apply in Gibraltar and the Information Commissioner will remain Gibraltar's independent regulator for data protection.

### 2.2 Transfers to EEA countries (including EU Member States) and the UK

Gibraltar will transitionally recognise all EEA states, EU and EEA institutions, and the UK as providing an adequate level of protection for personal data. This means that personal data can continue to flow freely from Gibraltar to these destinations following the UK's exit from the EU. Gibraltar would keep all of these decisions under review.

Gibraltar cannot provide for free flow of data into Gibraltar; jurisdictions outside of

### **3.1 Data Protection continued**

Gibraltar will provide their own rules on the transfer of data internationally. For those that rely on data transfers from the EU, alternative mechanisms for such transfers are available. Gibraltar organisations will need to work with their EU counterparts to make sure an alternative mechanism for transfer (such as standard contractual clauses) is in place.

#### **2.3 Existing EU adequacy decisions**

Where the EU has made an adequacy decision in respect of a country or territory outside of the EU prior to Exit day, the Government of Gibraltar intends to preserve the effect of these decisions on a transitional basis. This will mean that transfers from Gibraltar organisations to those adequate countries can continue uninterrupted.

As set out on the European Commission's website, the Commission has so far recognised Andorra, Argentina, Canada (commercial organisations), Faroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Switzerland, Uruguay and the United States of America (limited to the Privacy Shield framework).

#### **2.4 Recognising EU Standard Contractual Clauses**

Provision will be made so that the use of Standard Contractual Clauses (SCCs) that have previously been issued by the European Commission will continue to be an effective basis for international data transfers from Gibraltar in a 'No Deal' scenario. In practice this means that organisations that transfer personal data to organisations overseas on the basis of SCCs can continue to rely on them. Under the proposed regulations, the Information Commissioner will have the power to issue new SCCs after Exit day.

#### **2.5 BCRs**

Existing authorisations of Binding Corporate Rules (BCRs) made by the Information Commissioner will continue to be recognised in domestic law. After Exit day the Information Commissioner will continue to be able to authorise new BCRs under domestic law.

#### **2.6 Maintaining extraterritorial scope**

The EU GDPR applies to controllers or processors who are based outside of the EEA where they are processing personal data about individuals in the EEA in connection with offering them goods and services, or monitoring their behaviour.

The Government of Gibraltar intends to retain the extraterritoriality of Gibraltar's data protection framework. This will mean that the Gibraltar framework will apply to controllers or processors who are based outside of Gibraltar where they are processing personal data about individuals in Gibraltar in connection with offering them goods and services, or monitoring their behaviour. This includes controllers and processors based in the EU.

#### **2.7 Gibraltar representation for controllers**

Where article 3(2) of the EU GDPR applies, article 27 of the EU GDPR requires a controller or processor not established in the EEA to designate a representative within the EEA.

### 3.1 Data Protection continued

The requirement does not apply to public authorities or if the controller/processor's processing is only occasional, low risk, and does not involve special category or criminal offence data on a large scale.

The Government of Gibraltar intends to replicate this provision to require controllers based outside of Gibraltar to appoint a representative in Gibraltar.

## Data Protection and Data Flows - No deal Brexit

### Information Commissioner - 6 Steps to Take

#### 1. Continue to comply

Continue to apply GDPR standards and follow current guidance from the Information Commissioner. If you have a Data Protection Officer, they can continue in the same role for both Gibraltar and Europe.

#### 2. Transfers to Gibraltar

Review your data flows and identify where you receive data into Gibraltar from the European Economic Area (EEA). Think about what GDPR safeguards you can put in place to ensure that data can continue to flow once we are outside the EU.

#### 3. Transfers from Gibraltar

Review your data flows and identify where you transfer data from Gibraltar to any country outside Gibraltar, as these will fall under new Gibraltar transfer and documentation provisions.

#### 4. European operations

If you operate across Europe, review your structure, processing operations and data flows to assess how Gibraltar's exit from the EU will affect the data protection regimes that apply to you.

#### 5. Documentation

This will need updating when the UK and Gibraltar leave the EU.

#### 6. Organisational awareness

Make sure key people in your organisation are aware of these key issues. Include these steps in any internal circular. Review your privacy information and your internal documentation to identify any details that will assist planning for leaving the EU, and keep up to date with the latest information and guidance.

For the full guidance please visit the Gibraltar Regulatory Authority's website <https://www.gra.gi/data-protection>



# HM Government of Gibraltar

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**GET READY**



**Further information for businesses and organisations is available from the Brexit Information Office, 323 Main Street.**

## 3.2 .eu domain

This guidance is for those who have existing domain name registrations under .eu or have an interest in registering a domain name under .eu. This includes individuals, companies or organisations.

### What you need to do

Check eligibility:

- Undertakings, organisations and individuals to read Article 4(2)(b) of Regulation (EC) No 733/2002 and check if they are still eligible to hold a .eu Top Level Domain.

If you do not meet the eligibility after our exit from the EU on 31 October 2019:

In its notice to stakeholders, the European Commission confirmed that in the event of the UK leaving the EU without a deal, the EU regulatory framework for the .eu Top Level Domain will no longer apply to the United Kingdom and therefore to Gibraltar as from the withdrawal date.

The notice explains that undertakings and organisations that are established in Gibraltar but not in the EU and individuals who reside in Gibraltar, will no longer be eligible to register .eu domain names or, if they are .eu registrants, to renew .eu domain names registered before the withdrawal date. The full text of the notice is available (<http://ec.europa.eu/digital-single-market/en/news/notice-stakeholders-withdrawal-united-kingdom-and-eu-rules-eu-domain-names>)

In the scenario that we exit the EU without a deal, you should check whether you continue to meet the eligibility criteria set out in Article 4(2)(b) of Regulation (EC) No 733/2002 to hold a .eu Top Level Domain.

### Existing Gibraltar registrants of .eu

If you currently hold a .eu registration and the related purchase agreement expires before 31 October 2019, it is suggested that you discuss whether you should consider transferring your registration to another top level domain with your local domain name registrar.

If your current .eu registration is due to expire after 31 October 2019, you may wish to discuss transferring your registration to another top level domain. Examples of other top level domains include .gi, .com, .co.uk, .net or .org.

The Commission's notice states that where a holder of a domain name no longer fulfils the general eligibility criteria, the Registry for .eu will be entitled to revoke such a domain name on its own initiative. This means that in the event of a No Deal Brexit you may not be able to access your .eu website or email.

You may wish to seek advice from your local domain name registrar on whether the terms of your contractual agreement provide for any recourse in the event of revocation of a .eu registration. You may also want to seek legal advice.

## 3.2 .eu domain continued

### Future Registrations

If you are a Gibraltar resident, Gibraltar registered company or organisation planning to acquire an internet domain registration under .eu, you may no longer be eligible to acquire and register a .eu domain. If we exit the EU without a deal, you should check whether you remain eligible after exit on 31 October 2019.

### Further Information

Should these issues affect you or your business, the Government of Gibraltar would recommend that you read EURid's Brexit Notice published on 9 September 2019. The Notice explains the steps that EURid will take to enforce EU measures regarding .eu domain names that have GB/GI as the registrant's country code should the UK and Gibraltar leave the EU without a deal on 31 October 2019. The Notice can be accessed here:

<https://eurid.eu/en/register-a-eu-domain/brexit-notice/>

### **3.3 UK Government guarantees EU funding programmes in Gibraltar**

This section provides an overview of how the UK Government's guarantee for EU-funded programmes applies to Gibraltar, if the UK leaves the EU with No Deal.

For Gibraltar, it covers:

- EU Structural Funds, specifically the European Regional Development Fund (ERDF)
- the European Social Fund (ESF)

#### **European Territorial Cooperation Programmes before 31 October 2019**

Until the UK leaves the EU, the UK remains a Member State, with all the rights and obligations that includes. The UK and Gibraltar will continue to participate in EU programmes while the UK remains a member of the EU.

As agreed as part of the UK financial settlement with the EU, Gibraltar will continue to take part in all EU programmes after 31 October 2019 for the rest of the 2014 to 2020 Multiannual Financial Framework.

The financial settlement has been agreed by both UK and European Commission negotiators in a draft Withdrawal Agreement and welcomed by the other 27 EU countries at the March European Council.

#### **After October 2019 if there is No Deal**

In the event of a No Deal Brexit, the UK along with Gibraltar will leave the EU Budget in October 2019. Without further action, this would mean Gibraltar could lose future funding for existing projects under EU programmes. However, the UK Chancellor of the Exchequer has agreed that the UK government will guarantee funding for specific EU projects. This will provide certainty for Gibraltar and participating organisations over the course of our EU exit.

EU Structural Funds that Gibraltar receives as part of the 2014-20 Multiannual Financial Framework allocation – the European Regional Development Fund (ERDF) and the European Social Fund (ESF), and European Territorial Cooperation programmes (a sub-fund of Structural Funds that involves cross-border projects).

The UK Government's guarantee ensures that Gibraltar will continue to receive funding over a project's lifetime if they successfully bid into EU-funded programmes while the UK remains a member of the EU, and, where access (for example as a third country) is available, before the end of 2020.

## 3.4 Financial Services

### Financial Services Framework after Brexit

In the event of a no deal Brexit on 31 October 2019, HM Government of Gibraltar will be ready for departure from the EU with our legislation amended to ensure a fully functioning financial services regime across all sectors.

Gibraltar's position in the European Union derives from the UK's position and Gibraltar will follow the UK in whatever arrangement is finally agreed.

### Status of Gibraltar under EU Law

Gibraltar has a special status in the EU by virtue of Article 355(3) of the Treaty on the Functioning of the European Union (previously Article 299(4) of the EC Treaty) which states that:

*The provisions of the Treaties shall apply to the European territories for whose external relations a Member State is responsible.*

Gibraltar is a separate territory to which the EU Treaties apply and Gibraltar has transposed all relevant EU Directives, including all EU Directives that apply to financial services.

EU law is directly given effect in Gibraltar by the operation of Gibraltar's own European Communities Act 1972, which is primary legislation passed by the Gibraltar Parliament. The Government of Gibraltar has enacted its own EU (Withdrawal) Act 2019 ("EUWA"), which forms part of the wider work the Government of Gibraltar is undertaking to prepare for the UK's and Gibraltar's withdrawal from the EU. The EUWA is in similar terms to the UK's EU Withdrawal Act 2018.

### The EUWA

As there is a risk that there will not be an arrangement in place on 31 October 2019, the Government of Gibraltar must plan for a 'no deal' scenario. The Government of Gibraltar intends to use powers in the EUWA to ensure that Gibraltar continues to have a functioning financial services regulatory regime in all scenarios.

The EUWA will repeal the European Communities Act 1972 on exit day and convert into Gibraltar domestic law the existing body of directly applicable EU law (including EU Regulations). It will also preserve Gibraltar laws relating to EU membership – e.g. legislation implementing EU Directives. This body of law is referred to as "retained EU law". The EUWA also gives Ministers powers to prevent, remedy or mitigate any failure of EU law to operate effectively, or any other deficiency in retained EU law, through regulations.

The regulations are not intended to make policy changes, other than to reflect Gibraltar's new position outside the EU, and to smooth the transition to this situation. The scope of the Ministerial power reflects this.

## 3.4 Financial Services continued

### Arrangements between the UK and Gibraltar

The Financial Services and Markets Act 2000 (Gibraltar) Order 2001 (the Gibraltar Order) controls the arrangements between Gibraltar and the UK for access to each other's markets. The Gibraltar Order provides for access arrangements through deemed passporting rights.

The UK has laid two Statutory Instruments which amend the Gibraltar Order as well as other EU derived and EU exit legislation to preserve passporting arrangements between the UK and Gibraltar, and to ensure that existing regulatory treatments in relation to Gibraltar continue to function effectively in UK law after exit day. The UK has unequivocally confirmed that the current access arrangements for Gibraltar financial services firms to access the UK market will continue post-Brexit and Gibraltar has equally confirmed access for UK firms into Gibraltar.

Similarly, in the event of No Deal, the Government of Gibraltar will be introducing draft regulations to retain reciprocal market access arrangements between Gibraltar and the UK. The draft Financial Services (Passport Rights and Transitional Provisions) (EU Exit) Regulations 2019 (the Regulations), made under the EUWA, will:

- Retain reciprocal passporting rights for Gibraltar and UK firms in respect of financial services which are subject to regulation under the single market directives;
- Include the introduction of transitional arrangements enabling EEA firms that currently passport into Gibraltar to continue to do so under a temporary permission for a limited period of time whilst they consider if they want to apply for full authorisation in Gibraltar or cease activities; and
- Include the introduction of a restricted temporary permission for pre-existing contractual obligations, enabling EEA firms to continue carrying out regulated activities in Gibraltar where doing so is necessary to perform ongoing contracts to which they were a party before exit day.

The Government of Gibraltar will be supplementing the Regulations with an additional set of regulations. These will include detailed changes to existing legislation in order to:

- Retain existing market access between Gibraltar and the UK;
- Retain the main elements of single market directives to apply between Gibraltar and the UK (e.g. Solvency II, MiFID II, IDD);
- Ensure that UK deposits remain protected after exit day; and
- Capture market abuse related issues.

### Financial services contingency preparations

The Government of Gibraltar, has continued to work closely with the GFSC, following a

### **3.4 Financial Services continued**

thorough review of EU and Gibraltar domestic financial services legislation, to identify any deficiencies that may arise when Gibraltar leaves the EU.

The GFSC has identified the key areas that need to be addressed and these are being tackled in various sets of regulations that will introduce the necessary changes and provide for business continuity.

As has been previously stated, the approach taken has been one where, to the extent possible the same laws and rules that are currently in place in Gibraltar will continue to apply at the point of exit, providing continuity and certainty as we leave the EU.

Inevitably, some changes will be required to reflect Gibraltar's new position outside the EU.

#### **The Government of Gibraltar's approach to fixing deficiencies**

Gibraltar's financial sector is overseen by the Government and underpinned by a strong legislative framework with a world-class regulator, the GFSC. This means that the responsibilities of EU bodies could be re-assigned efficiently and effectively, providing firms, funds and their customers with confidence after exit.

Gibraltar's financial services legislation already provides for third country operators providing services into Gibraltar. EU financial services firms operating in Gibraltar broadly would become subject to the same supervisory regime that Gibraltar already applies to other third countries. This existing legislative framework provides powers for extensive cooperation with global regulatory bodies. When Gibraltar is no longer part of the EU, and so the EU obligation of reciprocal cooperation no longer applies, this existing framework could be relied upon to ensure this important cooperation continues.

#### **Temporary Permissions Regime ("TPR")**

A key consideration is to provide for continuity and to allow time to prepare for a smooth transition to the new regime. As in the United Kingdom, the Government of Gibraltar will be introducing a Temporary Permissions Regime (TPR). To deal with the loss of passporting rights on Gibraltar's exit from the EU without a negotiated agreement, the TPR will allow EEA authorised firms to continue operating in Gibraltar for a time-limited period. For those firms wishing to maintain their Gibraltar business on a permanent basis, the regime will provide sufficient time to apply for full authorisation from the GFSC.

EEA authorised firms will not be able to use the UK-Gibraltar passporting arrangements after exit day. These rights will only be available for firms incorporated and headquartered in Gibraltar and the UK.

#### **Split of responsibilities between the Government of Gibraltar and the GFSC**

In leaving the EU without a deal, many functions currently carried out at an EU level would cease to apply to Gibraltar and these are being provided for in Gibraltar's regulatory regime. These changes will be evident in the regulations the Government of Gibraltar will be introducing to address the deficiencies when Gibraltar leaves the EU.

## 3.4 Financial Services continued

### The Implementation Period

It is still unclear whether the Withdrawal Agreement will be ratified and therefore if there will be a transitional period until 31 December 2020. In the event that the Withdrawal Agreement enters into force that transitional period will exist to allow for transition for the UK and Gibraltar arising from withdrawal from the EU.

The transitional period (also known as the “implementation period”) will provide time to introduce the new arrangements that will underpin the future relationship between the UK and the EU, and Gibraltar. Any revised arrangements between the UK and the EU will include Gibraltar. During the implementation period, common EU rules will continue to apply in Gibraltar. The UK will continue to implement new EU law that comes into effect and Gibraltar will do the same. This will mean that access by Gibraltar authorised firms to EU markets will continue on current terms until the end of the implementation period. During the implementation period, EU financial services firms operating in Gibraltar, and Gibraltar financial services firms operating in the EU, will be able to continue to undertake regulated activities, either by means of passporting rights or under other relevant EU frameworks. EU and third country (non-EU) financial market infrastructures that have existing authorisation or recognition under EU legislation will continue to be able to provide services to Gibraltar, enabling access to financial market infrastructures without disruption.

Inbound firms currently permitted to operate in Gibraltar without Gibraltar authorisation or recognition may plan on the assumption that they will not need Gibraltar authorisation or recognition before the end of the implementation period.

### The Legislative Reform Programme

Separately from EU exit preparations, the new Financial Services Bill which amends and consolidates our existing legislation, will not be presented to Parliament until after the 31 October 2019 and an opportunity given for the Finance Centre Council and the sector to be consulted.

### More information

This is meant for guidance only. You should consider whether you need to take independent professional advice.

## 3.5 Aviation

The purpose of this section is to inform air passengers and the public of actions HM Government of Gibraltar is taking in the event that the UK and Gibraltar leave the EU without a deal on 31 October 2019.

### Existing Position

Gibraltar Airport serves flights between Gibraltar and the UK, and flights between Gibraltar and Morocco.

Air services between Gibraltar and the UK are considered domestic flights on the basis that the UK signed the Convention on International Civil Aviation (the “Chicago Convention”) on behalf of itself, the Crown Dependencies and the Overseas Territories, including Gibraltar. As an EU Member State, the UK is part of the internal market for air services. As such, flights between the UK and Gibraltar operate on the basis of EU legislation allowing for the free circulation of flights within EU airspace without the need for advance permission from individual national authorities.

Air services between Gibraltar and Morocco function on the basis of an Air Services Agreement agreed between the EU and Morocco. Gibraltar forms part of this Agreement.

### In case of a Withdrawal Agreement

If the Withdrawal Agreement is approved and enters into effect, the status quo would remain up to the end of the transition period – that being 31 December 2020.

### If there is no Withdrawal Agreement – a No-Deal Brexit

#### Flights between the United Kingdom and Gibraltar

To minimise disruption to air traffic that would be caused by a No Deal Brexit, the EU is in the process of adopting a measure which would allow air carriers from the UK to fly across EU territory without landing and to make stops in the EU for traffic and non-traffic purposes.

As such, for the period provided for in the proposed legislation, UK air carriers will be able to fly across the territory of the EU to Gibraltar as normal in the same way as they would be able to fly across the territory of the EU to any other third country. Similarly, UK aircraft needing to divert to Malaga Airport, because they are unable to land at Gibraltar Airport, will continue to be able to do so.

The principle of the right to overfly and the right to divert are further enshrined in the International Air Services Transit Agreement (IATA).

#### Flights between Gibraltar and Morocco

In preparation for the UK and Gibraltar leaving the EU, the UK has negotiated an Air Service Agreement with Morocco. The Agreement, which will come into effect on 31 October 2019 in the event of a No-Deal Brexit, has been extended to include flights to and from Gibraltar Airport. Flights operated between Gibraltar and Morocco would therefore

### 3.5 Aviation continued

be able to continue as normal even in the event of a No Deal Brexit.

#### Security

As part of the preparations for a No Deal Brexit, HM Government of Gibraltar has ensured that EU Security Regulations will be retained in Gibraltar law. Therefore, passengers using Gibraltar Airport will not experience any change to existing security arrangements.

The current security arrangements would continue to apply to mail, cargo/freight, live animals or courier mail carried in the hold of an aircraft.

#### Passenger rights

For air passengers on flights between the UK and Gibraltar, the same passenger rights as apply before exit day would continue to apply after 31 October 2019 given that EU passenger rights legislation will be retained in UK law for passengers travelling on UK Airlines.



## 3.6 Workplace Rights in Gibraltar

### Background

There are over 15,000 persons who live in Spain and work in Gibraltar making up about 50% of the labour market.

This figure includes representation from all the Member States of the European Union as broken down below. It also includes non-EU nationals and British Citizens.

Nationality:	Amount:
Algerian	1
American	9
Angolan	1
Argentinian	4
Armenian	1
Australian	3
Austrian	11
Belgian	23
Bolivian	2
Bosnian	1
Brazilian	9
British - Gibraltarian	121
British - Other	2339
Bulgarian	84
Canadian	3
Chilean	1
Chinese	7
Colombian	1
Croatian	19
Cypriot	5
Czech	56
Danish	30
Dominican	1
Dutch	64
Equatorian	1
Estonian	31
Filipino	4
Finnish	8
French	95
German	125
Ghanian	2
Greek	49
Hungarian	165

Nationality:	Amount:
Indian	8
Indonesian	1
Irish	110
Italian	261
Japanese	1
Latvian	32
Lithuanian	58
Luxembourg	2
Macedonian	1
Malaysian	1
Maltese	4
Mexican	1
Moldovian	1
Moroccan	14
New Zealander	2
Norwegian	6
Polish	215
Portuguese	934
Romanian	468
Russian	5
Salvadorean	1
Serbian	1
Singaporean	1
Slovakian	79
Slovenian	7
South African	1
Spanish	9726
Swedish	43
Swiss	10
Tunisian	1
Ukrainian	3
Uruguayan	0
Venezuelan	1
Total:	15275

### 3.6 Workplace Rights in Gibraltar continued

The Government of Gibraltar firmly believes in the importance of maintaining strong labour protection. Indeed, EU legislation in this regard would remain in force and become retained EU law as we leave the European Union.

This will ensure legal certainty and clarity for stakeholders on their rights and responsibilities.

#### **Before 31 October 2019**

The workplace rights and protections covered in this notice come from EU law and include the following:

- The Working Time Act, which includes provision for annual leave, holiday pay and rest breaks
- Family leave entitlements, including maternity and parental leave
- Certain requirements to protect the health and safety of workers
- Legislation to prevent and remedy discrimination and harassment based on sex, age, disability, sexual orientation, religion or belief, and race or ethnic origin in the workplace, and any resulting victimisation
- The TUPE regulations, protecting workers' rights in certain situations when there is a transfer of business or contracts from one organisation to another
- Legislation to cover employment protection of part-time, fixed-term and young workers; information and consultation rights for workers, including for collective redundancies
- Legislation covering insolvency referred to in the Employment Act and Employment (Occupational Pensions) Regulation 2018 and, the Gibraltar Development Corporation (Employers Insolvency) Regulations, 1991 administering redundancy related payments to employees in case of insolvency.

The EU (Withdrawal) Act 2018 brings across the powers from EU Directives. This means that existing workers in Gibraltar will continue to be entitled to the rights they have under local law, covering those aspects, which come from EU law (including those listed above except where caveated below).

Domestic legislation already exceeds EU-required levels of employment protections in a number of ways. The Government of Gibraltar will make small amendments to the language of our legislation to ensure the existing regulations reflect that Gibraltar no longer forms part of the EU. These amendments will not change existing policy. This will provide legal certainty, allowing for a smooth transition from the day of EU exit, and will ensure that employment rights remain unchanged, including the employment rights of those already working in Gibraltar on a temporary basis, except where set out below.

In the following cases, withdrawal from the EU in a No Deal scenario impacts on participation in agreed arrangements with the EU that will benefit all EU countries:

### 3.6 Workplace Rights in Gibraltar continued

- ***Employer Insolvency:***

Currently, Gibraltar, British and EU employees working in Gibraltar are protected under the Employment Act, Employers (Occupational Pensions) Regulations 2018 and, the Gibraltar Development Corporation (Employers Insolvency) Regulations, 1991, with procedures in place for making claims in the case of employer insolvency. Similarly, Gibraltarians working in an EU country are protected by the laws of that country that implements the directive.

- ***European Works Councils:***

Currently, EU law allows for workers to request, in certain circumstances, that their employer establishes a European Works Council to provide information and consult with employees on issues affecting employees across two or more European Economic Area states. These rules are set out in the European Works Council Directive (2009/38/EC). The statutory framework that applies to European Works Councils would require a reciprocal agreement from the EU for them to continue to function in their present form within Gibraltar.

In a No Deal scenario, there are no expected financial implications or impacts for citizens or businesses operating in Gibraltar in regards to workplace rights. There are some implications in relation to European Works Councils and the insolvency of some employers, as laid out below.

#### **Employer insolvency**

With regards to employer insolvency, in a No Deal scenario, people living and working in Gibraltar for a Gibraltar based employer will continue to be protected under the same parts of the Employment Act, Employers (Occupational Pensions) Regulations 2018 and, the Gibraltar Development Corporation (Employers Insolvency) Regulations, 1991 implementing the Insolvency Directive.

Employees will still be able to bring forward claims in the same way that they can before exit day. Gibraltar law provides protection for all Gibraltar, British, EU and non-EU employees working in Gibraltar, provided that certain other criteria are met. This will not change as a result of exiting the EU.

Gibraltar and EU employees that work outside Gibraltar in an EU country for a Gibraltar employer may still be protected under the national guarantee fund established in that country. However, this may not always be the case, as there are variations in how each EU country has implemented the guarantee required by EU law.

#### **EU and Spanish No Deal Brexit Contingency Planning**

The European Union has excluded Gibraltar from its contingency plans in the event of the departure of the United Kingdom and Gibraltar without a Withdrawal Agreement.

However, Spain has made provisions for British Citizens and economic operators based in Gibraltar in its unilateral contingency measures. This means that:

- British frontier workers who work in Spain but live elsewhere will have their rights

### 3.6 Workplace Rights in Gibraltar continued

protected;

- there will be continued recognition of professional qualifications obtained in UK by British and Spanish nationals who are in Spain prior to the date of withdrawal;
- UK nationals will be exempt from nationality requirements in the field of public employment, provided that they are already practicing a profession in Spain at the date of withdrawal.

### Gibraltarian and EU employees working in an EU country

Employees should make themselves aware of the relevant implementing legislation in the EU country in which they work, to confirm whether they will still be protected under the national guarantee fund established in that country.

### Gibraltar businesses and trade unions

Gibraltar businesses with European Works Councils, and trade unions that are parties to European Works Council agreements, may need to review those agreements in light of there no longer being reciprocal arrangements between Gibraltar and the EU.

### More information

Norway, Iceland and Liechtenstein are party to the Agreement on the European Economic Area and participate in other EU arrangements. As such, in many areas, these countries adopt EU rules. Where this is the case, these technical notices may also apply to them, and EEA businesses and citizens should consider whether they need to take any steps to prepare for a 'no deal' scenario.



**Over 15,000 people cross the border from Spain to work in Gibraltar.**

### **3.7 Social Security Coordination**

If the UK and Gibraltar leave the EU without a deal, current arrangements concerning the coordination of social security systems across the EU and between Gibraltar and individual Member States will change.

#### **Existing Position**

EU law provides for common rules to protect social security rights when moving within the EU (as well as Iceland, Liechtenstein, Norway and Switzerland). The law covers all the traditional branches of social security and it ensures, for example, that beneficiaries:

- Are covered by the legislation of a single country and pay premiums in that country;
- Have the same rights and obligations;
- Are guaranteed that previous periods of insurance, work and residence in other countries will be taken into account in the calculation of their benefits;
- Can, if they are entitled to a cash benefit in a country, collect this benefit if they do not live in that country.

#### **If there is a Withdrawal Agreement**

If the Withdrawal Agreement enters into effect, the status quo would remain up to the end of the transition period – that being 31 December 2020.

#### **If there is no Withdrawal Agreement**

Pursuant to the Gibraltar European Union (Withdrawal) Act 2019 (the “Act”), Gibraltar will retain EU law as part of Gibraltar’s domestic legislation after the UK and Gibraltar’s withdrawal from the EU. At the same time, the Act allows EU law to be amended to remedy any deficiencies that arise as a result of exit. Gibraltar will thus retain EU legislation on social security coordination subject to making necessary modifications to ensure that the law remains operable.

It is therefore HM Government of Gibraltar’s intention, like that of the UK Government, to initially maintain status quo, on a unilateral basis, ensuring that citizens’ acquired rights are protected in relation to social security matters even in the context of a No-Deal Brexit.

However, in circumstances where the EU system of social security coordination relies on cooperation and reciprocity from other EU Member States, it should not be assumed that this will continue in a No-Deal scenario in relation to other EU Member States. Gibraltar cannot, as a matter of domestic legislation, require EU Member States to cooperate with Gibraltar authorities, provide information, or apply the rules contained in EU law to individuals moving to from Gibraltar.

Notwithstanding the above, it should be noted that the EU have recently adopted an EU Regulation which is intended to safeguard, in case of a No Deal Brexit, the social security rights of (1) citizens of EU Member States in the UK and Gibraltar; and (2) UK nationals

### 3.7 Social Security Coordination continued

(including Gibraltarians) in the EU who have benefitted from the right of free movement prior to the UK and Gibraltar's exit from the EU.

Moreover, with regard to the position in Spain specifically, it should be noted that the Government of Spain has enacted national legislation outlining contingency measures applicable in the case of a No Deal Brexit. The legislation, which has been extended to cover Gibraltar, and which will apply for a period of 21 months following a No Deal exit, complements legislation adopted at EU level on matters concerning the coordination of social security systems.

In the medium to long term, and in the absence of a future agreement covering social security matters, HM Government of Gibraltar will develop policy in this area, amending legislation where necessary, to take into account the level of reciprocity guaranteed by individual EU Member States.

Lastly, it is also important to underline that a No Deal exit from the EU would be of no practical effect on the coordination of social security between Gibraltar and the UK. Longstanding bilateral arrangements, already in place as between the UK and Gibraltar will be maintained.

### 3.8 Shipments of Waste

If the UK and Gibraltar leave the EU without a deal both the UK and Gibraltar will no longer be covered by EU waste law. Gibraltar will, in effect, become a third country vis-a-vis the EU where matters concerning the shipments of waste are concerned.

#### Existing Position

Under the current position where Gibraltar is covered by EU legislation, Regulation (EC) No 1013/2006 on the shipment of waste (the “Transfrontier Shipments of Waste Regulation” or “TSW Regulation”) applies to Gibraltar. The TSW Regulation implements the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and the Disposal (the “Basel Convention”) through which international shipments of waste are controlled through a process of prior written consent. The TSW Regulation also incorporates into EU legislation the Organisation for Economic Co-operation and Development decision (C (2001) 107) (the “OECD Decision”) on the control of transboundary movements of wastes destined for recovery operations. It is on the basis of the TSW Regulation that Gibraltar ships waste to other EU Member States, including Spain.

Gibraltar mainly implements the TSW Regulation via Part IIB of the Public Health Act.

#### If there is a Withdrawal Agreement

If the Withdrawal Agreement enters into effect the status quo would remain up to the end of the transition period – that being 31 December 2020.

#### If there is no Withdrawal Agreement

##### ***Validity of existing approvals to ship notified waste to, from and through the EU***

It was originally envisaged that current approvals to ship notified waste between Gibraltar and the EU, which extended beyond the date of a No-Deal exit, would have had to have been subject to a re-approval process. However, the UK Government has secured an agreement that all UK and Gibraltar consents for shipments of notifiable waste that go beyond 12 April 2019 will be rolled over without the need for re-approval. HM Government of Gibraltar has ensured that this covers current approvals granted to Gibraltar exporters with respect to shipments to Spain.

##### ***Waste shipments from Gibraltar to the EU including Spain***

After the UK and Gibraltar’s withdrawal from the EU, the Basel Convention will continue to apply to Gibraltar and Gibraltar will continue to apply the OECD Decision.

Gibraltar will be treated the same way as any other OECD country or any country party to the Basel Convention that intends to export waste to an EU country. The current waste shipments procedures will therefore still apply and relevant entities are advised to contact the Environmental Agency for further information.

If you are an exporter, you will need to make yourself aware of the EU Customs Guidelines and the EU Waste Shipment Regulations. These explain the rules for EU waste imports from

### 3.8 Shipments of Waste continued

outside the EU.

They require:

- Waste exporters to complete waste notification and waste movement forms with details of the Customs Office of Entry into the EU;
- Waste carriers to provide a copy of the waste movement document to the Customs Office of Entry into the EU; and
- Gibraltar exporters to check that any transport of waste within the EU is carried out by authorised waste carriers.

Before you submit a notification to the Environmental Agency for export waste to the EU for disposal or recovery, HM Government of Gibraltar must submit a duly reasoned request (a “DRR”) to the relevant EU competent authority. The DRR explains why Gibraltar does not have, or cannot provide the required disposal or recovery facilities. The impact of the new requirement to submit a DRR will be minimal. The rules for shipping waste for recycling will stay the same.

#### **Further information**

This Notice is meant for guidance only.

Further information can be sought from the Environmental Agency:

Email: [admin@eag.gi](mailto:admin@eag.gi)

Telephone: + 350 200 70620

### **3.9 Civil Litigation involving EU Member States**

The purpose of this Notice is to explain the effect of a No Deal exit from the EU on the handling of civil legal cases involving other EU jurisdictions. Therefore, this Notice covers rules such as those concerning applicable legislation in cross-border civil and commercial disputes, cross-border insolvency proceedings and matters of family law.

#### **Existing Position**

Gibraltar currently applies EU rules to determine:

- The courts of which jurisdiction should hear a civil, commercial or family law case raising cross-border issues with other EU Member States;
- Which country's laws apply;
- How a judgment obtained in Gibraltar or an EU Member State should be recognised and enforced in each other's jurisdictions; and
- How cross-border legal procedural matters are handled (such as taking evidence in one country for use in proceedings in another).

Gibraltar also applies a number of international agreements applicable to it under its terms of membership of the EU. These agreements also enable elements of judicial cooperation with non-EU countries such as Switzerland, Norway and Iceland or other countries that are parties to those international conventions.

Gibraltar also applies international conventions that have been extended to it by the UK.

#### **In case of a Withdrawal Agreement**

With respect to the application of EU rules, if the Withdrawal Agreement enters into effect the status quo would remain up to the end of the transition period – that being 31 December 2020.

The position in relation to international conventions would remain unaltered by Gibraltar's departure from the EU where the UK is a member of such conventions in its own right and the relevant conventions have been extended to Gibraltar.

#### **If there is no Withdrawal Agreement**

In the event of a No Deal Brexit there would be no reciprocal EU framework providing for ongoing civil judicial cooperation between Gibraltar and EU Member States.

Notwithstanding the above, the Gibraltar European Union (Withdrawal) Act 2019 (the "Act") will have the effect of converting EU law applicable to Gibraltar at the moment of exit into Gibraltar law. The Act will also create powers to enable corrections to be made to the laws that would otherwise no longer operate appropriately once Gibraltar has left the EU. Consequentially Gibraltar will, unilaterally and voluntarily, continue to apply EU law relevant to the areas described in this Notice.

### 3.9 Civil Litigation involving EU Member States continued

Importantly however, EU Member States will not consider Gibraltar to be covered by EU rules after exit day. EU Member States will instead apply their own domestic rules covering non-EU Member States. Therefore, by way of example, the process of registering and enforcing a judgment order obtained in Gibraltar in an EU Member State may be more complex than is currently the case under relevant EU legal frameworks.

Furthermore, as detailed below, Gibraltar will continue to apply existing international agreements currently applicable to Gibraltar, such as The Hague Conventions.

#### **Guidance concerning specific areas in a No-Deal scenario**

##### Civil and commercial judicial cooperation

As explained above, the Act will effectively migrate EU law, which currently has direct effect in Gibraltar, into Gibraltar domestic legislation so that those rules continue to apply as from exit day. Therefore, Gibraltar will, pursuant to domestic law, continue to apply inter alia the Brussels Ia Regulation[1], the Enforcement Order Regulation[2], the Order for Payment Regulation[3] and the Small Claims Regulation[4]. Gibraltar will also continue to apply the EU/Denmark 2005 Agreement[5] (which extends the Brussels Ia rules to Denmark) and the Lugano Convention (which is the basis of Gibraltar's civil judicial relationship with Norway, Iceland and Switzerland). HM Government of Gibraltar will make any necessary corrections under the vires afforded by the Act to ensure the continued operability of these frameworks.

However, as previously underlined, Gibraltar will apply these measures unilaterally and not on the basis of reciprocity. Therefore if assistance is sought in the countries to which these EU rules apply, that assistance may need to be sought pursuant to the national legislation applicable in the countries concerned or pursuant to alternative international conventions. In the context of the latter, it is important to note that in a No-Deal scenario the UK will, in its own right, become a party to the 2005 Hague Convention on Choice of Courts Agreements and that Convention will be extended to Gibraltar.

Separately, Gibraltar will retain Rome I[6] and Rome II[7] rules on applicable law in contractual and non-contractual matters. This will ensure that businesses and individuals will generally be able to continue to use the same rules as before exit day to determine which law would apply in cross-border disputes.

##### Cross-border insolvency cooperation

By virtue of the Act, Gibraltar will also continue to apply the Insolvency Regulation[8]. Therefore, orders made pursuant to insolvency proceedings opened in EU Member States will be recognised in Gibraltar pursuant to the same rules.

However, applications may need to be made in accordance with an EU Member State's domestic legislation to have orders made in Gibraltar registered and recognised elsewhere in the EU.

Additionally, EU insolvency proceedings and judgments may continue to be recognised in Gibraltar under the UNCITRAL Model Law on Cross-Border Insolvency. This already forms

### 3.9 Civil Litigation involving EU Member States continued

part of Gibraltar's domestic rules on recognising foreign insolvencies. Gibraltar proceedings and judgments may also be recognised in EU Member States that have legislation based on the Model Law.

#### Family law cooperation

In family law cooperation, the key EU regulations are Brussels IIa[9] and the Maintenance Regulation[10]. The Act provides for the continued application of these measures in Gibraltar.

Alternatively, in many cases, relevant Hague Conventions can be relied upon where these apply and Gibraltar has, for example, recently enacted legislation to implement the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance which will be extended to Gibraltar. Another example is the 1970 Hague Convention on the Recognition of Divorces and Legal Separations.

#### Service of documents and the taking of evidence

Gibraltar will continue to implement the Service Regulation[11] and the Taking of Evidence Regulation[12]. Separately, Gibraltar will continue to participate in The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

#### Matters involving other UK jurisdictions

As part of the EU, and with specific regard to proceedings involving the different jurisdictions that make up the UK, it was not always the case that EU rules applied as between, for example, Gibraltar and England & Wales. In relation to specific EU instruments, legislation in place in Gibraltar did at times provide for the application of EU rules as between Gibraltar and the UK. For instance, Section 39(1) of the Civil Jurisdiction and Judgments Act, clarifies that Gibraltar and the United Kingdom shall be treated as if each were a separate Member State for all purposes connected to the Brussels Ia and Brussels IIa Regulations. Another example is the Insolvency (Cross Border Insolvencies) Regulations 2014 in connection with the operation of the Insolvency Regulation. These rules will not change.

All other cases, where Gibraltar and the UK are not to be treated as separate EU Member States for the purposes of applying EU instruments on civil and commercial judicial matters, would be unaffected by a No Deal exit. In these cases, domestic rules, relevant to either the UK jurisdiction concerned or to Gibraltar, would apply as usual.

In the UK, the 1968 Brussels Convention on the Recognition and Enforcement of Judgments in Civil and Commercial Matters shall, as a matter of English law, continue to apply as between Gibraltar and the UK by virtue of the Civil Jurisdiction and Judgments Act 1982 (Gibraltar) Order 1997.

#### **Further information**

This Notice is meant for guidance only.

### 3.9 Civil Litigation involving EU Member States continued

HM Government of Gibraltar would advise any party to a cross-border legal dispute, including businesses, consumers and families, to consider the effect that these changes would have on any existing or future cases involving parties in EU Member States. Where appropriate, professional legal advice on the implications of these changes should be sought.

#### Footnotes:

1. Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
2. Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.
3. Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.
4. Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure.
5. Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
6. Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations.
7. Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations.
8. Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.
9. Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.
10. Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.
11. Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents).
12. Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters

## 3.10 Accounting and Auditing

This Notice explains the implications for accounting, corporate reporting and audit in the event that the UK and Gibraltar leave the EU without a deal. For the purpose of this Notice, a “Gibraltar company” means a company incorporated in Gibraltar and includes a subsidiary incorporated in Gibraltar, regardless of the nationality of its parent, but does not include a Gibraltar branch of a company incorporated elsewhere. An “EU company” means a company incorporated in the EU regardless of the nationality of its parent but does not include an EU branch of a company incorporated elsewhere.

### Existing Position

Gibraltar currently follows EU rules and regulations that fall under the areas of accounting, corporate reporting and audit. These rules and regulations set out how companies and other legal entities report on their financial activity, corporate governance arrangements and how those reports are audited. This is reflected in Gibraltar law mainly through the Companies Act 2014 (and regulations made under that Act) and the Financial Services (Auditors) Act 2009 (and regulations made under that Act).

### If there is a Withdrawal Agreement

If the Withdrawal Agreement enters into effect, the status quo would remain up to the end of the transition period – that being 31 December 2020.

### If there is no Withdrawal Agreement

HM Government of Gibraltar will ensure that Gibraltar continues to have a functioning regulatory framework for companies and that, as far as possible, the same laws and rules that are currently in place continue to apply. This will be done by using the powers in the Gibraltar European Union (Withdrawal) Act 2019 to correct deficiencies in our statute book arising from our exit from the EU.

#### *Accounting and corporate reporting*

The corporate reporting regime will be unchanged in many respects. However, certain technical changes are necessary to reflect that Gibraltar will no longer be part of the EU.

#### *Audit*

Given the retention of EU law as Gibraltar domestic legislation, Gibraltar will continue to apply EU rules. Gibraltar, like the UK, will unilaterally provide a transitional period in the field of audit until 31 December 2020. During this period, individuals will be able to continue to apply for their EEA audit registration to be recognised in Gibraltar on the same terms. Additionally, EEA audit firms will continue to count towards the majority of appropriately approved persons test for owning Gibraltar audit firms.

The rules relating to audits of Gibraltar companies operating solely within Gibraltar will be unchanged. However, there will be additional requirements relating to the audits of Gibraltar companies operating cross-border, and to the provision of audit services cross-border.

### 3.10 Accounting and Auditing continued

**Further detail is provided in the sections below.**

#### ***Accounting and corporate reporting***

Gibraltar incorporated subsidiaries and parents of EU businesses will continue to be subject to Gibraltar's corporate reporting regime.

However, Gibraltar businesses with a branch operating in the EU will become third country businesses and will be required to comply with specific accounting and reporting requirements for such businesses in the Member State in which they operate. Complying with accounting and reporting requirements set in Gibraltar domestic legislation may no longer be treated by those Member States as sufficient.

Gibraltar companies listed on an EU market may also be required to provide additional assurances to the relevant listing authority that their accounts comply with International Financial Reporting Standards as issued by the International Accounting Standard Board. This will need to be done in accordance with EU third country requirements. In the short term, this could lead to changes to the compliance statements which are required within the annual accounts submitted to listing authorities.

#### ***Audit***

In order to be able to sign audit reports on behalf of an audit firm approved in Gibraltar, the auditor must be recognised as a statutory auditor by the Gibraltar Financial Services Commission. Since Gibraltar will be retaining EU law, EEA auditors will continue to be recognised in Gibraltar provided that they are registered with the competent authority of their home state; and that they pass an aptitude test as is the position today. After 31 December 2020, EEA auditors will cease to benefit from recognition in Gibraltar on the same terms and may no longer be offered an aptitude test. However, EEA auditors recognised as a result of an aptitude test process, which is begun before 31 December 2020, will continue to be recognised.

HM Government of Gibraltar is in the process of adopting legislation on the transitional period for the recognition of audit registrations and the continued requirement for an aptitude test.

Separately, as is currently the case, auditors approved in EEA states will count towards the required majority of owners or board of a Gibraltar audit firm. EEA audit firms will also continue to be recognised.

Audits of EU businesses seeking to raise capital by issuing shares or debt securities on a regulated market in Gibraltar will need to be undertaken by an auditor registered with the Gibraltar Financial Services Commission.

In a No-Deal Brexit an individual's UK or Gibraltar audit registration may no longer be recognised in an EU Member State.

Audits of businesses seeking to raise capital by issuing shares or debt securities on a regulated market in the EU will need to be undertaken by an auditor registered as a "third country auditor" in the EU Member State in which the market operates. The audit will then

### **3.10 Accounting and Auditing continued**

be in scope of a cycle of inspections by the recognised authority for that market.

A Gibraltar audit firm that wishes to own part of, or be part of the management body of, an EU firm will no longer be recognised among the required majority of EU qualified owners or board.

## **Actions for businesses and other stakeholders**

### **Accounting and corporate reporting**

Gibraltar businesses may wish to make themselves aware of the specific accounting and reporting requirements of any Member State in which they operate.

Gibraltar businesses listed on an EU market may wish to make themselves aware of EU third country requirements for listed entities.

Gibraltar legal, accounting and company secretariat service providers to Gibraltar, UK or EU businesses with operations and listings in Gibraltar, the UK and the EU will need to ensure that their clients are aware of the additional reporting requirements as well as the need to obtain additional agreements and assurances.

### **Audit**

As soon as the legislation is published, individuals registered in EEA states will want to make themselves aware of the detail of the transitional period for the recognition in Gibraltar of auditors registered in EEA states and the continued requirement for an aptitude test. Individuals who are already recognised in Gibraltar do not need to take any further action.

Statutory auditors and audit firms approved in Gibraltar, who want to provide audit services in a Member State, will need to understand how their Gibraltar registration will be recognised in that Member State. This will govern their ability to sign audit reports on behalf of an audit firm approved in that Member State, and their ability to be recognised as part of the required majority of EU qualified members of the ownership or management body of an audit firm.

Gibraltar businesses who wish to raise capital by issuing shares or debt securities on a regulated market in the EU may wish to consider securing the services of a third country auditor registered in the relevant Member State.

An audit firm wanting to be an auditor of a Gibraltar business with debt or equity traded on an EU market will need to register as a third country auditor in the Member State in which the securities market is situated or operates.

This Notice is meant for guidance only.

Where appropriate, professional legal advice on the implications of these changes should be sought.

Further information can be sought from the Gibraltar Financial Services Commission:  
<https://www.fsc.gi/contact>

# PART 4 - UNILATERAL SPANISH CONTINGENCY MEASURES

## 4.1 Unilateral Spanish Contingency Measures

The Government of the Kingdom of Spain has adopted a series of unilateral contingency measures which will take effect in the event of a No Deal Brexit in respect of the United Kingdom and Gibraltar.

The statement issued by the Spanish Presidency makes it clear that these measures will apply, as provided for in the legislation, to “British nationals and economic operators established in Gibraltar.” This will serve to protect the close economic relationship between Gibraltar and the Campo de Gibraltar. It will serve to provide a degree of reassurance to citizens and businesses in Gibraltar and in Spain.

The legislation will be unilateral and of a temporary nature, given that the future relationship will be defined once the United Kingdom becomes a third country.

It covers a number of different areas.

### 1. Residency

The residency rights acquired by British nationals and their families who live in Spain prior to the date of withdrawal will be safeguarded.

### 2. Frontier Workers

British frontier workers who work in Spain but live elsewhere will have their rights protected.

### 3. Recognition of Frontier Workers

There will be continued recognition of professional qualifications obtained in the UK by British and Spanish nationals who are in Spain prior to the date of withdrawal.

### 4. Exemption for Public Employment

UK nationals will continue to be exempt from nationality requirements in the field of public employment, provided that they are already practicing a profession in Spain at the date of withdrawal.

### 5. Social Security Coordination

Measures dealing with social security coordination will be applied to complement those adopted at EU level.

### 6. Access to Healthcare

This will continue as at present for British nationals who live in Spain or who travel to Spain, including holidaymakers, until the end of 2020.

## 4.1 Unilateral Spanish Contingency Measures continued

### 7. Access to Spanish Universities

There will be continued access to Spanish universities for students from the education system in the UK and Gibraltar on the same basis as before EU exit for the academic years 2019-2020 and 2020-2021.

### 8. Economic Measures

#### (a) Financial Services

- Financial services measures aimed to support those already adopted at EU level providing for contracts to remain in force.

#### (b) Customs

- Measures relevant to the UK's departure from the Customs Union. Possibility of bringing forward certain Customs procedures in order to avoid congestion in the first few days after the UK's EU exit.
- A simplified procedure for goods that would require to go through a Border Inspection point or Phytosanitary inspection point.

(c) Continued application of EU public procurement rules for British bidders participating in Spanish procurement procedures initiated before the date of withdrawal.

### 9. Driving Licences

Matters related to authorisations and licenses. Specifically in relation to driving licences, these will continue to be recognised as valid in Spain for a period of 9 months. For those touring on holiday in Spain after that period, licenses will be recognised in accordance with applicable international conventions.

### 10. Road Transport

Measures concerning road transport to complement those that the EU proposes to adopt.

### 11. Air Transport

Maintaining for one year rules concerning public services and catering services applicable in the EEA for flights to the UK.

### 12. Judicial and Police Cooperation

Measures facilitating the handling of ongoing procedures in respect of European Arrest Warrants and the surrender and transfer of prisoners.

The full Spanish Royal Decree can be found at:

<https://www.boe.es/eli/es/rdl/2019/03/01/5/dof/spa/pdf>

The following link should be useful for British citizens who are resident in Spain:

<https://www.gov.uk/guidance/living-in-spain>



HM Government  
of Gibraltar

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