



**The European Union (Modification and General  
Provisions) (Brexit) (Bailiwick of Guernsey)  
Regulations, 2019**

*Made*

26<sup>th</sup> March, 2019

*Coming into operation*

*See Regulation 9*

*Laid before the States*

**WHEREAS** the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018<sup>a</sup>, will preserve certain EU provisions in the domestic law of the Bailiwick,

**WHEREAS** other EU provisions having effect in the Bailiwick pursuant to the European Communities (Implementation) Law, 1994<sup>b</sup>, or any other enactment will continue to have effect,

**RECOGNISING** that the United Kingdom may withdraw from the EU at the end of the article 50 period without having agreed a withdrawal agreement,

**ACKNOWLEDGING** that, in consequence, it is necessary to make further arrangements that provide for the continued operability of the law until new

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<sup>a</sup> Order in Council No. I of 2019.

<sup>b</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

arrangements are put in place,

**NOW THEREFORE THE POLICY & RESOURCES COMMITTEE**, in exercise of the powers conferred on it by sections 5(1) and 11 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, and upon receipt of the certificate required under section 5(3) of that Law, hereby makes the following Regulations:-

**Provision in respect of the United Kingdom.**

1. (1) Unless the United Kingdom is separately provided for, any reference (however described) in an enactment (or in any EU provision implemented by or under an enactment) having effect immediately before exit day or in Preserved EU law to -

- (a) the EU or the EEA, or
- (b) member states of the EU or the EEA,

is to be read as including the United Kingdom.

(2) For the purposes of paragraph (1), the United Kingdom shall be deemed to include those related Territories that formed part of the EU or the EEA, but only -

- (a) if the related Territory is not separately provided for, and
- (b) to the extent that the related Territory formed part of the EU or the EEA immediately before exit day.

**Provision in respect of the EU.**

2. (1) In an enactment having effect immediately before exit day or in Preserved EU law, any reference to the "Community", "European Community" or "European Communities", or like expressions or corresponding abbreviations, shall, unless the contrary intention appears, be treated as being or including (as the context requires) a reference to the "Union", the "European Union" or the "EU", and references to "Community law" or "Community provision" are to be construed accordingly.

(2) Otherwise than as provided for in regulation 1, any reference (however described) in Preserved EU law to -

(a) the EU or the EEA, or

(b) member states of the EU or the EEA,

is to be read as a reference to the EU or the EEA as comprised, or member states forming part of the EU or EEA, the day after exit day.

**Allocation and re-allocation of EU functions.**

3. (1) Any function of an executive nature, including functions of a regulatory nature, in Preserved EU law ("**relevant function**") conferred on -

(a) the EU or any institution, body or agency of the EU (however described), or

(b) a member state of the EU or any institution, body or agency of a member state (however described),

shall be deemed to be conferred on the relevant Committee, subject to and in accordance with existing provision made in any enactment, or in any arrangements

entered into or otherwise existing, concerning the functions of any Bailiwick Authority.

(2) In consequence of paragraph (1), the corresponding references in Preserved EU Law to the EU, member state of the EU, or any institution, body or agency (however described) of the EU or a member state shall be deemed to be references to the relevant Committee.

(3) Subject to paragraph (4), the relevant Committee may, by Order, provide that any relevant function allocated to it by paragraphs (1) and (2) is to be re-allocated to another committee, and accordingly any relevant function re-allocated by Order of the relevant Committee will be deemed to be conferred on the committee appointed in any such Order.

(4) For the avoidance of doubt -

- (a) the relevant Committee may not re-allocate a relevant function to a committee of another Bailiwick Authority using the power in paragraph (3) without the consent of that committee, and
- (b) the power in paragraph (3) is without prejudice and in addition to any other power to re-allocate a function of a relevant Committee.

**Other modifications of Preserved EU Law.**

4. (1) No provision of Preserved EU Law shall be deemed to -

- (a) apply in,

- (b) give rise to any right, power, or obligation to do or refrain from doing anything in, or
- (c) be exercisable in relation to,

any territory outside the Bailiwick.

(2) Any relevant function which would, but for this paragraph, place the relevant Committee or, as the case may be, another committee under a duty or otherwise oblige it (without limitation) to consult, co-operate, co-ordinate, inform, notify, or in some other way interact with ("**relevant duty**") -

- (a) the EU or any institution, body or agency of the EU (however described),
- (b) a member state of the EU or any institution, body or agency of a member state (however described),

shall be deemed to empower, but not require, the relevant Committee or, as the case may be, another committee to do so.

(3) In consequence of paragraph (2), any provision of Preserved EU Law which prescribes the manner by which a relevant duty is to be performed, the consequences of performing a relevant duty, or the consequences of failing to perform a relevant duty, is disapplied.

(4) Otherwise than as provided for in paragraphs (2) and (3), any other provision of Preserved EU Law which would, but for this paragraph -

- (a) place a Bailiwick Authority or any committee of a

Bailiwick Authority under a duty or otherwise oblige all or any one of them (without limitation) to consult, co-operate, co-ordinate, inform, notify, or in some other way interact with -

- (i) the EU or any institution, body or agency of the EU (however described), or
- (ii) a member state of the EU or any institution, body or agency of a member state (however described),

shall be deemed to empower, but not require, a Bailiwick Authority or any committee of a Bailiwick Authority to do so, and

- (b) prescribe the manner by which any such duty or obligation is to be performed, the consequences of performing such a duty or obligation, or the consequences of failing to perform such a duty or obligation, is disapplied.

(5) Any provision of Preserved EU Law which would, but for this paragraph, prohibit, limit, or otherwise restrict -

- (a) the performance of any relevant function by the relevant Committee or, as the case may be, another committee, or
- (b) the exercise of any legislative function by a Bailiwick Authority,

on the grounds that such performance or exercise would be incompatible with EU law is disapplied.

(6) Any provision of Preserved EU Law which would, but for this paragraph, make the -

- (a) performance of any relevant function by the relevant Committee or, as the case may be, another committee, or
- (b) the exercise of any legislative function by a Bailiwick Authority,

subject to or contingent on (without limitation) -

- (i) any pre-condition relating to,
- (ii) any approval or consent from, or
- (iii) consideration of factors concerning -

(A) the EU or any institution, body or agency of the EU (however described), or

(B) a member state of the EU or any institution, body or agency of a member state (however described),

is disapplied.

**Further savings.**

5. For the avoidance of doubt, any reference in an enactment to a restriction or obligation to which section 2(1) of the European Communities Act 1972<sup>c</sup> applied is to be read, on and after exit day, as a reference to a restriction or obligation to which section 2(1) of the European Communities Act 1972 applied immediately before exit day.

**Interpretation.**

6. (1) In these Regulations, unless the contrary intention appears -

"**Bailiwick**" includes the territorial waters adjacent to Guernsey, Alderney and Sark,

a "**Bailiwick Authority**" means -

- (a) the States of Deliberation,
- (b) the States of Alderney, or
- (c) the Chief Pleas of Sark,

"**exit day**" has the meaning given in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,

"**member**", in the expression "**member state**", refers to membership of the EU or, as the case may be, EEA,

"**related Territory**" means the British Islands (other than the United

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<sup>c</sup> An Act of Parliament (1972 c. 68).

Kingdom), the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, and Gibraltar,

"**relevant Committee**" means, in relation to a relevant function capable of applying -

- (a) in Sark only, the Sark Committee,
- (b) in Alderney only, the Alderney Committee, and
- (c) in any other case, the Policy & Resources Committee,

and "**the Sark Committee**", "**the Alderney Committee**" and "**the Policy & Resources Committee**" have the meanings given in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,

"**relevant duty**": see regulation 4(2), and

"**relevant function**": see regulation 3(1).

**Extent.**

- 7. These Regulations have effect in the Bailiwick.

**Citation.**

- 8. These Regulations may be cited as the European Union (Modification and General Provisions) (Brexit) (Bailiwick of Guernsey) Regulations, 2019.

**Commencement.**

- 9. These Regulations shall come into force on exit day.

Dated this 26<sup>th</sup> day of March, 2019



G. A. ST PIER

President of the Policy & Resources Committee

For and on behalf of the Committee

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations complement the provisions of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, and provide for the continued operability of the law in the case of a 'no deal' Brexit.

In particular, these Regulations provide that references to the EU or its Members States shall be read as including the UK in order to ensure the continued application to the UK of Preserved EU Law or EU-derived provisions in domestic law. The Regulations also allocate formerly EU functions contained in Preserved EU Law to committees in Guernsey, Alderney and Sark, as appropriate. Any provisions in Preserved EU Law which would place conditions or restrictions on the exercise of functions by the Bailiwick legislatures, or their committees, are also removed. Similarly, any imposition of duties by Preserved EU law on Bailiwick legislatures, or their committees, is deemed by operation of the regulations to be a conferral of relevant powers.

These Regulations will come into force on exit day, being the 11pm on 29<sup>th</sup> March 2019, or such other day and time as the Policy & Resources Committee may appoint by regulations.