



EUROPEAN UNION AND TRADE ACT 2019 (DEFICIENCIES) (TREASURY) REGULATIONS 2019

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Statutory Document No. 2019/0027



European Union and Trade Act 2019

EUROPEAN UNION AND TRADE ACT 2019 (DEFICIENCIES) (TREASURY) REGULATIONS 2019

*Approved by Tynwald: 19th February 2019
Coming into Operation in accordance with regulation 2*

The Council of Ministers makes the following Regulations under section 12 of the European Union and Trade Act 2019.

PART 1 – PRELIMINARY

1 Title

These Regulations are the European Union and Trade Act 2019 (Deficiencies) (Treasury) Regulations 2019.

2 Commencement

If approved by Tynwald¹, these Regulations come into operation on exit day.

3 Interpretation

In these Regulations “**exit day**” has the same meaning as in the European Union and Trade Act 2019.

PART 2 – AMENDMENTS TO PRIMARY LEGISLATION

4 Income Tax Act 1970 amended

(1) The Income Tax Act 1970 is amended as follows.

(2) In section 11A (limit on income chargeable on non-residents), for subsection (7), substitute –

☐ (7) For the avoidance of doubt, in subsection (1)(b) reference to “tax deducted” shall not include any retention tax deducted under the

¹ Tynwald approval is required under section 12(1) of the European Union and Trade Act 2019.

Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005 [SD 150/05] pursuant to a retention agreement entered into between the Island and —

- (a) the United Kingdom; or
- (b) a member State of the European Union. **22**.

(3) In section 48D (eligible contracts), for subsection (3)(b), substitute —

23(b) an insurer not carrying on business in the Isle of Man, but carrying on business in the United Kingdom or an EEA state, and being either a national of the United Kingdom or an EEA state or a company or partnership formed under the law of the Isle of Man, the United Kingdom or an EEA state and having its registered office, central administration or principal place of business in the United Kingdom or an EEA state. **22**.

5 Timeshare Act 1996 amended

In section 12 of the Timeshare Act 1996 (application of EU timeshare legislation), for subsection (2) substitute —

24(2) This section applies to any EU instrument which relates directly or indirectly to timeshare accommodation, timeshare rights, timeshare agreements, or persons who carry on timeshare business or which otherwise relates to timeshare. **22**.

6 Insider Dealing Act 1998 amended

In section 9 of the Insider Dealing Act 1998 (other interpretation provisions), in subsection (3), in the definition of “**public sector body**”, for sub-paragraph (iii) substitute —

25(iii) any international organisation the members of which include the United Kingdom; **22**.

7 Heavily Indebted Poor Countries (Limitation on Debt Recovery) Act 2012 amended

(1) The Heavily Indebted Poor Countries (Limitation on Debt Recovery) Act 2012 is amended as follows.

(2) In section 9 (exception for overriding EU or international obligations) —

- (a) in the heading omit the words “EU or”;
- (b) for subsection (1), substitute —

26(1) Nothing in this Act applies to a foreign judgement or an arbitration award that is required to be enforced in full by an international obligation that applies to the Island, even in cases

where such enforcement is contrary to the public policy of the Island. **22**.

PART 3 – AMENDMENTS TO SECONDARY LEGISLATION

8 Insurance (Protected Cell Companies) Regulations 2004 amended

- (1) The Insurance (Protected Cell Companies) Regulations 2004² are amended as follows.
- (2) In regulation 15(2) (application to permit holders), omit the word “other”.
- (3) In Part I of Schedule 8 (application for insurance permit for a cellular entity), for the Note at the end of the Appendix substitute –

23Note: If the applicant is not an insurer authorised by the United Kingdom or by a Member State of the E.U., complete also the Appendices to Parts I and III of Schedule 1 and provide the information set out in Part II to that Schedule. **22**.

9 Authorised Collective Investment Schemes Regulations 2010 amended

- (1) The Authorised Collective Investment Schemes Regulations 2010³ are amended as follows.
- (2) In regulation 4 (interpretation), for the definition of “**member state**” substitute –
- (3) In regulation 37 (issuers and guarantors of money-market instruments) –

23“**member state**” means a member state of the European Union or of the European Economic Area and, for the purposes of these Regulations, includes the United Kingdom. **22**.

(a) in paragraph (1), for sub-paragraph (a) substitute –

23(a) issued or guaranteed by any one of the following –

- (i) a central authority of the United Kingdom or an EEA State or, if the EEA State is a federal state, one of the members making up the federation;
- (ii) a regional or local authority of the United Kingdom or an EEA State;
- (iii) the Bank of England, the European Central Bank or a central bank of an EEA State;

² SD 0149/04 (as amended)

³ SD 0682/10

- (iv) the European Union or the European Investment Bank;
 - (v) a non-EEA State other than the United Kingdom or, in the case of a federal state, one of the members making up the federation;
 - (vi) a public international body to which the United Kingdom or one or more EEA States belong; or ~~22~~;
and
- (b) in paragraph (2), for sub-paragraph (a) substitute —
- ~~22~~(a) it is located in the United Kingdom or the European Economic Area; ~~22~~.

10 Regulated Activities Order 2011 amended

In Part 1 of Schedule 2 to the Regulated Activities Order 2011⁴ (interpretation), in the definition of “payment service provider”, for paragraph (e) substitute —

- ~~22~~(e) the Isle of Man Treasury, the European Central Bank and the national central bank of any EEA State, other than when acting in their capacity as a monetary authority or carrying out other functions of a public nature; and ~~22~~.

11 Financial Services (Exemptions) Regulations 2011 amended

In Schedule 1 to the Financial Services (Exemptions) Regulations 2011⁵ (exemptions from licensing), for paragraph 8.3(d) substitute —

- ~~22~~(d) the Isle of Man Treasury, the Bank of England, the European Central Bank or the national central bank of an EEA State; or ~~22~~.

12 Payment Services Regulations 2015 amended

(1) The Payment Services Regulations 2015⁶ are amended as follows.

(2) In regulation 4 (interpretation), in paragraph (1) —

(a) for the definition of “branch” substitute —

~~22~~“branch” means a place of business of —

- (a) an authorised payment institution;
- (b) an authorised payment institution, within the meaning of the Payment Services Regulations 2017⁷, based in the United Kingdom;

⁴ SD 0884/11 (as amended)

⁵ SD 0885/11 (as amended)

⁶ SD 2015/0206

⁷ 2017 No. 752

- (c) a payment service provider, within the meaning of the EU Legislation (Payment Services – SEPA) (Jersey) Regulations 2015⁸, based in the Bailiwick of Jersey;
 - (d) a payment services provider, within the meaning of the Single Euro Payments Area (Guernsey) Ordinance 2016, based in the Bailiwick of Guernsey; or
 - (e) an EEA authorised payment institution;
- other than its head office, which has no legal personality and which carries out directly all or some of the transactions inherent in its business;⁹;
- (b) for the definition of “**electronic money institution**” substitute –
- ☒ “**electronic money institution**” –
- (a) in relation to a person conducting business in or from the Island means a person licensed by the Authority to conduct Class 8(4) activity;
 - (b) in relation to a person conducting business in the United Kingdom has the meaning given in Regulation 2(1) of the Electronic Money Regulations 2011⁹;
 - (c) in relation to a person conducting business in the Bailiwick of Jersey means an electronic money service business under Article 2(9) of the Financial Services (Jersey) Law 1998;
 - (d) in relation to a person conducting business in the Bailiwick of Guernsey means an electronic money service business under Paragraph 4 of Schedule 1 to the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law 2008; and
 - (e) in relation to a person conducting business in the EEA has the meaning given in Article 2(1) of the electronic money directive;⁹; and
- (c) for the definition of “**relevant State**” substitute –
- ☒ “**relevant State**” means –
- (a) the Island;
 - (b) the United Kingdom;
 - (c) the Bailiwick of Jersey;

⁸ 17.245.54

⁹ 2011 No. 99

- (d) the Bailiwick of Guernsey; or
- (e) an EEA State;¹⁰.

13 European Union (Credit Transfers and Direct Debits in Euro) Order 2015 amended

For paragraph (2) of the Schedule to the European Union (Credit Transfers and Direct Debits in Euro) Order 2015¹⁰ substitute —

- ⁶³(2) References in the EU instrument to “Member State”, “Member States” and “the Union” shall be read as if —
 - (a) the United Kingdom were itself a Member State and its territory were included within the Union territory;
 - (b) the Island were itself a Member State, its territory were included within the Union territory and for the purposes of European Union law were a separate country from the United Kingdom;
 - (c) the Bailiwick of Jersey were itself a Member State, its territory were included within the Union territory and for the purposes of European Union law were a separate country from the United Kingdom; and
 - (d) the Bailiwick of Guernsey were itself a Member State, its territory were included within the Union territory and for the purposes of European Union law were a separate country from the United Kingdom.¹¹.

14 European Union (Information Accompanying Transfers of Funds) Order 2016 amended

For paragraph (1) of the Schedule to the European Union (Information Accompanying Transfers of Funds) Order 2016¹¹ substitute —

- ⁶⁴(1) Except where otherwise provided below, references in Regulation (EU) 2015/847 to “Member State”, “Member States” and “the Union” shall be read as if —
 - (a) the United Kingdom were itself a Member State and its territory were included within the Union territory; and
 - (b) the Island were itself a Member State, its territory were included within the Union territory and for the purposes of European Union law were a separate country from the United Kingdom.¹¹.

¹⁰ SD 2015/0248

¹¹ SD 2016/0349

15 Financial Services Rule Book 2016 amended

In rule 3.2 of the Financial Services Rule Book 2016¹² (interpretation: general), in the definition of “**recognised bank**”, for paragraph (d) substitute –

- ▣(d) a credit institution established in the United Kingdom, the EU or an EEA state and duly authorised by the relevant home state regulator;▣.

PART 4 – REVOCATIONS

16 Currency Act (Isle of Man European Currency Unit Coins) Order 1994

The Currency Act (Isle of Man European Currency Unit Coins) Order 1994¹³ is revoked.

PART 5 – GENERAL

17 Construction

To avoid doubt, any retained EU law is to be construed and have effect subject to these Regulations.

MADE 4TH FEBRUARY 2019

W GREENHOW
Chief Secretary

¹² SD 2016/0264 (as amended)

¹³ SD 0267/94 (as amended)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to various pieces of legislation so as to address deficiencies that arise as a result of the United Kingdom withdrawing from the European Union.

These Regulations make the following amendments to primary legislation—

- (a) in the Income Tax Act 1970, amendments have been made to reflect that the United Kingdom is not a Member State of the EU or a contracting state of the EEA;
- (b) in the Timeshare Act 1996, references to the European Communities (Isle of Man) Act 1973 have been removed and other wording has been changed to retain the ability of the Treasury to apply EU legislation relating to timeshares;
- (c) in the Insider Dealing Act 1998, an amendment has been made to reflect that the United Kingdom is not a Member State of the EU; and
- (d) in the Heavily Indebted Poor Countries (Limitation on Debt Recovery) Act 2012, references to EU obligations and EU law have been removed.

These Regulations make the following changes to secondary legislation —

- (a) in the Insurance (Protected Cell Companies) Regulations 2004, amendments have been made to reflect that the United Kingdom is not a Member State of the EU;
- (b) in the Authorised Collective Investment Schemes Regulations 2010, various amendments have been made to ensure that the United Kingdom is appropriately included within the territorial scope of the legislation;
- (c) in the Regulated Activities Order 2011 and the Financial Services (Exemptions) Regulations 2011, amendments have been made to reflect that the United Kingdom is not a Member State of the EU or a contracting state of the EEA;
- (d) in the Payment Services Regulations 2015, amendments have been made to ensure that several key definitions continue to have the appropriate territorial scope after exit day;
- (e) in the European Union (Credit Transfers and Direct Debits in Euro) Order 2015 and the European Union (Information Accompanying Transfers of Funds) Order 2016, amendments have been made to ensure the appropriate territorial scope of the legislation is maintained after exit day; and
- (f) in the Financial Services Rule Book 2016, amendments have been made to ensure that the United Kingdom is appropriately included within the territorial scope of the definition of “recognised bank”.

These Regulations also revoke the Currency Act (Isle of Man European Currency Unit Coins) Order 1994, which provided the Treasury with the authority to issue 'Isle of Man Euros'.