

Statutory Document No. 2019/0120



*European Union and Trade Act 2019*

## **EUROPEAN UNION AND TRADE ACT 2019 (DEFICIENCIES) (ENTERPRISE) REGULATIONS 2019**

*Approved by Tynwald: 20 March 2019  
Coming into Operation in accordance with regulation 2*

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

### **1 Title**

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

### **2 Commencement**

If approved by Tynwald<sup>1</sup> 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.

### **4 Exhaustion of intellectual property rights**

(1) Anything which —

- (a) was, immediately before exit day, an enforceable EU right relating to the exhaustion of rights of the owner of an intellectual property right under Articles 34 to 36 of the Treaty on the Functioning of the European Union or Articles 11 to 13 of the Agreement on the European Economic Area; and
- (b) is retained EU law by virtue of section 8 of the European Union and Trade Act 2019,

has the same effect on an after exit day, despite the United Kingdom not being a member State, as it had immediately before exit day.

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

- (2) In this regulation “enforceable EU right” has the same meaning given by section 2(1) of the European Communities (Isle of Man) Act 1973 (as that Act had effect immediately before its repeal by section 5 of the European Union and Trade Act 2019).

## 5 Copyright Act 1991 amended

- (1) The Copyright Act 1991 is amended as follows.
- (2) In section 12 (duration of copyright in literary, dramatic, musical or artistic works) –
- (a) in subsection (6) –
- (i) for “an EEA state”, where it first occurs, substitute **“the Island”**; and
- (ii) for “national of an EEA state” substitute **“national of the United Kingdom”**; and
- (b) in subsection (8)(c), for “national of an EEA state” in each place, substitute **“national of the United Kingdom”**.
- (3) In section 13(3) (duration of copyright in sound recordings), for “national of an EEA state” substitute **“national of the United Kingdom”**.
- (4) In section 13A (duration of copyright in films) –
- (a) in subsection (7) –
- (i) for “an EEA state”, where it first occurs, substitute **“the Island”**; and
- (ii) for “national of an EEA state” substitute **“national of the United Kingdom”**; and
- (b) in subsection (8) –
- (i) for “national of an EEA state”, in each place, substitute **“national of the United Kingdom”**.
- (5) In section 14(3) (duration of copyright in broadcasts), for “national of an EEA state” substitute **“national of the United Kingdom”**.
- (6) In section 15A(4) (meaning of country of origin) –
- (a) for paragraph (a), substitute –
- “(a) if the Island is one of those countries, the country of origin is the Island; and”**
- (b) in paragraph (b) for “if none of those countries is an EEA state” substitute **“if the Island is not one of those countries”**.
- (7) In section 18 (infringement by issue of copies to public) –
- (a) for subsection (2), substitute –
- “(2) References in this Act to the issue to the public of copies of a work are to the act of putting into circulation in the Island or”**

- the United Kingdom copies not previously put into circulation in the Island, the United Kingdom or the EEA by or with the consent of the copyright owner. **22**; and
- (b) for subsection (3), substitute –
- 23**(3) References in this Act to the issue to the public of copies of a work do not include any subsequent distribution, sale or hiring of copies previously put into circulation (but see section 18A (infringement by rental of work to the public)). **22**.
- (8) In section 27 (meaning of infringing copy) –
- (a) in subsection (3A), after “in the Island” insert **24**, the United Kingdom **22**; and
- (b) in subsection (5), for “any enforceable EU right within the meaning of section 2(1) of the European Communities (Isle of Man) Act 1973” substitute **25** anything which forms part of retained EU law **22**.
- (9) In section 149(1) (qualification by reference to author) –
- (a) in paragraph (a) omit “a national of another EEA state”;
- (b) in paragraphs (b) and (c), omit “or another EEA state”.
- (10) In section 150(1) (qualification by reference to country of first publication) omit “another EEA state,”.
- (11) In section 151(1) (qualification by reference to place of transmission) omit “another EEA state,”.
- (12) In section 169A (meaning of EEA national and EEA state) –
- (a) omit subsection (2); and
- (b) in subsection (3), after “the EEA” insert **26** or the United Kingdom **22**.
- (13) In section 174 (minor definitions) –
- (a) omit the entry for “the EU Treaties”; and
- (b) at the appropriate place insert –
- 27** “national of the United Kingdom” means –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas Citizen within the meaning of the British Nationality Act 1981 (of Parliament);
- (b) a person who under the British Nationality Act 1981 (of Parliament) is a British subject;
- (c) a British protected person within the meaning of that Act; or
- (d) a body incorporated under the law of any part of the United Kingdom or of the Island. **22**.
- (14) In section 175 (index of defined expressions) –

- (a) omit the entry for “the EU Treaties”; and
- (b) at the appropriate place insert –
  - “national of the United Kingdom” section 174.

## 6 Copyright (Amendment) Act 1999 amended

- (1) The Copyright (Amendment) Act 1999 is amended as follows.
- (2) In section 11(6) (qualification for database right), for “another EEA state” substitute “an EEA state”.
- (3) In section 20(1) (interpretation), for the entry for “EEA state” substitute –
  - “EEA state” has the meaning given by paragraph 1A of the Schedule to the *Interpretation Act 2015*.

## 7 Copyright etc. (Amendment) Act 2014 amended

- (1) The Copyright etc. (Amendment) Act 2014 is amended as follows.
- (2) In paragraph 1 of Schedule 1 (interpretation), at the appropriate place, insert –
  - “national of the United Kingdom” has the meaning given by section 174 of the Copyright Act 1991;
- (3) In paragraph 3 of Schedule 1 (qualification for publication right) –
  - (a) in subparagraph (1) –
    - (i) in head (b), after “an EEA state” insert “or a national of the United Kingdom”; and
    - (ii) after head (b), after “an EEA state” insert “or a national of the United Kingdom”; and
  - (b) in subparagraph (4), for “another” substitute “an”.

## 8 Design Right Act 1991 amended

- (1) The Design Right Act 1991 is amended as follows.
- (2) In section 16(5) (meaning of “infringing article”) for “any enforceable EU right within the meaning of section 2(1) of the European Communities (Isle of Man) Act 1973” substitute “anything which forms part of retained EU law”.

## 9 Performers’ Protection Act 1996 amended

- (1) The Performers’ Protection Act 1996 is amended as follows.
- (2) In section 3B (consent required for issue of copies to the public) –
  - (a) in subsection (2), for “EEA” (in each place) substitute “UK-EEA area”;

- (b) in subsection (3) –
  - (i) in paragraph (b), for “another” substitute **an**;
  - (ii) in the words after paragraph (b), for “EEA” (in both places) substitute **UK-EEA area**.
- (c) after subsection (3) insert –
  - (3A) In this section “UK-EEA area” means the United Kingdom and the EEA, taken together; and**
- (d) after subsection (5), insert –
  - (6) References in this section to putting anything into circulation in the UK-EEA area include putting into circulation in the Island.**
- (3) In section 12(4) (duration of rights), for “an EEA state” insert **the United Kingdom**.
- (4) In section 27(1) (qualifying countries, individuals and persons), in the definition of “qualifying country” for paragraph (b) substitute –
  - (b) the United Kingdom;**
- (5) In section 32(1) (expressions having same meaning as in copyright provisions), at the appropriate place insert –
  - national of the United Kingdom,**
- (6) In section 33 (index of defined expressions), at the appropriate place insert –
  - national of the United Kingdom** section 32(1) (and Copyright Act 1991 section 174).

## 10 The Design Right (Semiconductor Topographies) Regulations 1993 amended

- (1) The Design Right (Semiconductor Topographies) Regulations 1993<sup>2</sup> are amended as follows.
- (2) In regulation 4 (qualification) –
  - (a) in paragraph (2), in the substituted section 5(3)(c), for “another” substitute **a**.
  - (b) in paragraph (4), in the substituted section 8(1) –
    - (i) in paragraph (a), for “every member State of the European Economic Community” substitute **the Island**;
    - (ii) in paragraph (b), for “any member State” substitute **the Island**; and
  - (c) in paragraph (4) omit from “and section 8(4)” to the end of the sentence.

<sup>2</sup> SD 527/93

- (3) In the Schedule (additional classes of qualifying persons), for paragraph (4)(d) substitute –
- █(d) a member state of the EU; or █

## 11 Control of Employment Act 2014 amended

- (1) The Control of Employment Act 2014 is amended as follows.
- (2) In section 4(4)(b)(iii) (Isle of Man workers), for “EU obligation (within the meaning of the European Communities (Isle of Man) Act 1973)” substitute █retained EU obligation █.

## 12 The Merchant Shipping (Cargo Ship Construction) Regulations 1998 amended

- (1) The Merchant Shipping (Cargo Ship Construction) Regulations 1998<sup>3</sup> are amended as follows.
- (2) In regulation 2 (interpretation) –
- (a) in paragraph (1) –
    - (i) the entry for “EEA Agreement” is omitted; and
    - (ii) for the entry for “EEA State” substitute –
      - █“EEA State” has the meaning given by paragraph 1A of the Schedule to the Interpretation Act 2015; █.
  - (b) in paragraph (2)(ii) “other than the United Kingdom” is omitted.
- (3) In regulation 59 (alternative construction, equipment and machinery) –
- (a) in paragraph (2)(a) after “technical description of” insert █the United Kingdom or █; and
  - (b) in paragraph (2)(b) after “laboratory of” insert █the United Kingdom or █.

## 13 Further modification of the Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001 (of Parliament)

- (1) The Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001<sup>4</sup> is further modified in its application to the Island in accordance with paragraphs (2) and (3).
- (2) In regulation 2 (interpretation) –
- (a) the entry for “EEA Agreement” is omitted; and
  - (b) for the entry for “EEA State” substitute –

<sup>3</sup> SD603/98

<sup>4</sup> SI 2001 No 9 as applied to the Island by SD73/06 Fishing Vessel (Safety Legislation) (Application) Order 2006

“EEA State” has the meaning given by paragraph 1A of the  
Schedule to the Interpretation Act 2015;

- (3) In regulation 7(2) (equivalent provisions) for “an EEA State other than the Isle of Man” (wherever occurring) substitute the United Kingdom or an EEA State.

#### **14 Further modification of the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002 (of Parliament)**

- (1) The Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002<sup>5</sup> is further modified in its application to the Island in accordance with paragraphs (2) and (3).
- (2) In regulation 2(1) (interpretation) —
- (a) the entry for “EEA Agreement” is omitted; and
  - (b) for the entry for “EEA State” substitute —
- “EEA State” has the meaning given by paragraph 1A of the  
Schedule to the Interpretation Act 2015;
- (3) In regulation 5(2) (equivalent provisions), for “an EEA State other than the Isle of Man” (wherever occurring) substitute the United Kingdom or an EEA State.

#### **15 Construction**

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

**MADE 28 FEBRUARY 2019**

**W GREENHOW**  
*Chief Secretary*

<sup>5</sup> SI 2002 No 2201 as applied to the Island by SD73/06 Fishing Vessel (Safety Legislation)(Application) Order 2006.

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

These Regulations make amendments to legislation for which the Department for Enterprise is responsible in order to correct deficiencies resulting from the UK's withdrawal from the EU.

Intellectual property legislation including the Copyright Act 1991 and the Performers' Protection Act 1996 is amended to ensure that the legislation operates correctly after the UK exits the EU. These changes mirror similar revisions made by the UK Government in the Intellectual Property (Copyright and Related Rights) (Amendment) (EU Exit) Regulations 2018 and the Intellectual Property (Exhaustion of Rights) (EU Exit) Regulations 2018.

The Control of Employment Act 2014 is amended to remove a reference to the European Communities (Isle of Man) Act 1973.

The Merchant Shipping (Cargo Ship Construction) Regulations 1998, the Fishing Vessel (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001 and the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002 are amended to update the definition of "EEA State" so that it has the meaning given by the Interpretation Act 2015. In addition the Merchant Shipping (Cargo Ship Construction) Regulations 1998 are amended to remove "other than the United Kingdom" from the phrase "EEA State other than the United Kingdom" and to add a specific reference to the United Kingdom because the United Kingdom will no longer be included by the reference to an EEA State.