

*Royal Decree-Law 5/2019, of 1 March, adopting contingency measures to prepare for a withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union without the conclusion of the agreement provided for in Article 50 of the Treaty on European Union*

I

On 29 March 2017, the United Kingdom officially notified the European Council of its intention to leave the European Union (EU), invoking the procedure set forth in Article 50 of the Treaty on European Union. Unless this decision is revoked, or the deadline foreseen for said purpose is unanimously extended, the withdrawal shall become effective on 30 March 2019.

A two-year period then began for the European Union and the United Kingdom to negotiate an agreement regulating its withdrawal and future relationship, in order to assure an orderly withdrawal.

The negotiators of the two parties reached a consensus on the text of the Withdrawal Agreement on 14 November 2018. At the extraordinary meeting held on 25 November 2018, the European Council endorsed the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland (hereinafter, United Kingdom or UK) from the European Union and the European Atomic Energy Community, and invited the Commission, the European Parliament and the Council to make the provisions necessary to ensure that this agreement could enter into force on 30 March 2019. On 19 February 2019, Council Decision (EU) 2019/274 of 11 January 2019 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the aforementioned agreement, was published in the Official Journal of the European Union, together with the texts of the Withdrawal Agreement and of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom. The Withdrawal Agreement must be ratified by the United Kingdom, pursuant to its own constitutional requirements.

On 15 January 2019, the British Parliament voted against the proposed Withdrawal Agreement, and there are no guarantees that the United Kingdom will leave the EU with an agreement by 30 March 2019. Regardless of whether or not an agreement is adopted, on 30 March 2019 the United Kingdom will cease to be a Member State of the European Union, unless the United Kingdom notifies the European Union that it has revoked its decision to leave the European Union, or the United Kingdom and the European Union agree an extension to the negotiation period.

Given the uncertainty surrounding the ratification of the Withdrawal Agreement, the European Council has reiterated on a number of occasions the call made previously to the Commission and the Member States to step up the efforts being made in all areas to prepare for the consequences of the United Kingdom's withdrawal, taking all possibilities into account.

In the sphere of the European Union, the Commission has released three Communications. The first, dated 19 July 2018, was on the preparation for all outcomes of the United Kingdom's withdrawal. The second, dated 13 November 2018, centred on contingency planning, established the general principles and the areas on which the European Union's contingency measures would be focused. The third, dated 19 December 2018, specified the application of the Commission's contingency plan, and listed the legal acts that the Commission aims to adopt at the European level, indicating the planned schedule for their adoption.

Additionally, the Commission has published a number of sector notes aimed at informing Member States, economic operators, and citizens of the consequences of the United Kingdom's withdrawal.

In subsequent communications, the Commission has called on Member States, companies, and citizens to also make preparations—in the scope of their respective competences and responsibilities—for the consequences that the withdrawal of the United Kingdom from the European Union will inevitably entail.

## II

After the United Kingdom announced its decision to leave the European Union, the Spanish Government established an inter-ministry coordination system, including the territorial administrations, for sharing information on and preparing for Brexit, through the Inter-Ministry Committee for the Monitoring of the United Kingdom's withdrawal from the EU and the working groups under its aegis.

Since October 2018, the efforts to prepare for a no-deal withdrawal have been escalated.

Spain's Autonomous Communities have been consulted through the Conference for EU-Related Affairs, and an inter-administrative coordination system has been created through focal points to facilitate the flow of information.

The Spanish Government's contingency planning has two main objectives: firstly, to safeguard the interests of those Spanish and British citizens who exercised their right to freedom of movement before the withdrawal date; secondly, to maintain the normal course of trade flows and the economic interests of Spain. To achieve these objectives, three lines of action have been established: legislation, logistics, and communication.

## III

As regards legislative action, and in line with the guidelines contained in communications with the European Commission, the contingency measures adopted at all levels must adhere to certain principles.

They must be temporary, in accordance with deadlines that may vary depending on the specific area to which they refer. They must respect the distribution of competences set forth in the EU Treaties and they must be compatible with EU law.

Within the framework of these guidelines, the measures contained in this Royal Decree-Law aim to safeguard the interests of those citizens and economic operators that exercised their right to free movement within the scope of the freedoms granted by the EU Treaties in those areas under national authority which may be affected by the United Kingdom's withdrawal. In the specific case of the Colony of Gibraltar (hereinafter, Gibraltar), the content of the four Memorandums of Understanding formalized between Spain and the United Kingdom on 29 November 2018 must also be taken into account.

The contingency measures are intended to mitigate, as far as possible, the undesirable effects of a no-deal withdrawal by the United Kingdom on those areas under national authority which are considered essential to fostering an appropriate transition to the new situation.

However, it must be noted that these are temporary measures, aimed at facilitating the transition to the new situation created by the United Kingdom's being considered a third State. Thus, the measures will cease to apply when the duration period indicated for each one has elapsed, or before that date, in the event of the domestic or international adoption of instruments that will permanently regulate relations with the United Kingdom in the areas covered by this Royal Decree-Law.

Additionally, when so stipulated, continued application of the legal statuses regulated in this Royal Decree-Law shall be dependent on reciprocal treatment by the UK authorities of Spanish citizens and economic operators. This condition of reciprocity must be verified after the entry into force of this Royal Decree-Law, through the mechanisms specially established to this purpose.

#### IV

Chapter I, entitled "General Provisions", regulates the purpose of this Royal Decree-Law, the mechanism of reciprocity that is required for some of the legislative measures considered, and their temporary nature, when so established, providing for their possible extension.

Some of the measures regulated in this Royal Decree-Law shall be rescinded by the Government once a minimum period of two months has elapsed since their entry into force, if the competent British authorities do not offer equivalent treatment to natural and legal persons of Spanish nationality in each of the areas affected.

Those measures subject to a specific duration period shall cease to apply once the aforementioned period has elapsed, unless extended by the Government.

Chapter II sets forth the provisions affecting citizens that would require urgent adoption in the event of the United Kingdom's withdrawal from the European Union without an agreement. These provisions are designed to prevent the most prejudicial effects that a withdrawal of this type could cause for UK nationals who exercised their right to free movement before the withdrawal date. Furthermore, this Chapter includes several Social Security and healthcare measures aimed at guaranteeing the access to these rights and entitlements of citizens who have had or continue to have ties with the United Kingdom. In this way, should the United Kingdom leave the EU without an agreement, citizens' rights shall be protected and maximum legal certainty shall be assured.

Part 1 of Chapter II regulates the residence and employment of UK nationals residing in Spain and of their family members. Approval of these provisions is urgently needed because, in the event of a no-deal withdrawal, UK nationals, as well as their family members, would, for migration purposes, become nationals of third countries overnight, and would cease to be included in the framework of the Regime for EU citizens and instead would be included in the framework of the General Regime for Foreigners, without having the corresponding documentation. To avoid a potential situation of sudden irregularity, the provisions of Part 1 create an *ad hoc* regime for the documentation—as citizens of third countries—of UK nationals and of their family members who were residing in Spain prior to the withdrawal date.

Applications for this documentation must be submitted within 21 months of a withdrawal by the United Kingdom from the European Union without an agreement, and may be submitted both by individuals who already held a registration certificate or residence card for family members of EU citizens, and by individuals who did not, but who are able to prove that, before the withdrawal date, they had resident status in Spain.

Until that date, the registration certificates and cards for family members shall continue to be valid for as long as they are not replaced by the new documents. Furthermore, to guarantee the legal certainty of UK nationals who were residing in Spain prior to the withdrawal date, and that of their family members, regardless of their being holders of EU certificates or cards for family members of EU citizens, it is hereby confirmed that their residence in Spain shall continue to be legal.

Moreover, this Royal Decree-Law regulates the requirements for acquisition of long-term residence for UK nationals residing in Spain and for their family members who have legally resided in Spain on a continuous basis for at least five years.

Part 2 of Chapter II sets out the procedure for the issue of work permits to UK nationals who have the status of frontier workers.

Considering the specific nature of the circumstances regulated in these two Parts of Chapter II, this Royal Decree-Law provides that the more technical aspects of the aforementioned procedures shall be regulated by the instructions to be approved by the Council of Ministers. These instructions shall be issued based on Additional Provision One, section 4, of the Regulation of Organic Law 4/2000, of 11 January, on Rights and Freedoms of Foreigners in Spain and their Social Integration, approved by Royal Decree 557/2011, of 20 April, which provides for their approval in the event of unregulated scenarios of particular significance, and when economic, social, or employment circumstances so advise.

Part 3 of Chapter II regulates access to and pursuit of a profession, and the rules applicable to access to and maintenance of public employee status by UK nationals at the service of the Spanish public administrations.

Article 7 addresses the situation of UK nationals who, on the date of the United Kingdom's effective withdrawal, were pursuing on a permanent basis in Spain a profession or professional activity for which they had obtained recognition of their professional qualifications, enabling them to continue to pursue this profession or professional activity under the same terms in accordance with which said qualifications were recognized, provided that they meet the other conditions to which said pursuit is subject, including those for professions that cannot be accessed or pursued by an individual who is not a national of an EU Member State.

Similarly, those Spanish nationals, or nationals of any other Member State of the European Union, as well as nationals of third countries to which EU law or domestic law recognizes equivalent treatment, who were pursuing on a permanent basis in Spain a profession or professional activity for which they had obtained recognition of professional qualifications acquired in the United Kingdom or in Gibraltar, may continue to pursue their profession or professional activity under the same terms in accordance with which said qualifications were recognized, provided that they meet the other conditions to which said pursuit is subject.

UK nationals may participate in any proficiency tests for access to pursue certain professions—without needing to apply for an exemption from the nationality requirements to take those proficiency tests for which said exemption is required—provided that the deadlines for applications to undertake such tests are prior to the effective date of the United Kingdom's withdrawal.

This same Article extends the application of the prevailing legal regime for requests for the recognition of professional qualifications obtained in the United Kingdom, in Gibraltar, or in an EU Member State that are submitted by UK nationals to the Spanish authorities prior to the entry into force of this Royal Decree-Law or within the following five years, provided that the studies or activities that led to the granting of said formal qualifications were commenced prior to withdrawal. The same provisions are made for requests for recognition of professional qualifications obtained by Spanish nationals or by nationals of another EU Member State in the United Kingdom or in Gibraltar that are

submitted to the Spanish authorities prior to the entry into force of this Royal Decree-Law or within the following five years, provided that the studies or activities that led to the granting of said formal qualifications were commenced prior to withdrawal.

The Article also regulates the regime applicable to formal qualifications that are automatically recognized for those individuals who are pursuing a profession or professional activity in Spain on a temporary or occasional basis, as well as professional services firms and statutory auditors, and audit firms entered on the Official Register of Auditors.

Application of this Article is subject to the extension of reciprocal treatment by the competent British authorities.

Article 8 addresses the situation of UK nationals who have acquired the status of public employees, and their possibilities of participating in recruitment processes to enter the civil service.

Access to the Spanish civil service for nationals of other States is regulated in Article 57 of the consolidated text of the Act on the Basic Statute of Public Employees, approved by Royal Legislative Decree 5/2015, of 30 October, which guarantees the equal treatment and non-discrimination of EU workers and their family members as regards access to public employment.

To address the situation of UK nationals who have already acquired the status of career or temporary civil servant, or probationer, in State, Autonomous, or Local Administrations, or in a public university, Article 8.1 provides that they shall continue rendering their services under the same conditions, provided that they gained access to or commenced said activity prior to the effective withdrawal of the United Kingdom. This continuity is also provided for those persons whose personal circumstances coincide with those set forth in Article 57.2 of the consolidated text of the Act on the Basic Statute of Public Employees, that is to say, spouses of British citizens, provided that the couple is not legally separated, as well as their descendants and those of their spouse, provided that the couple is not legally separated, who are under the age of 21, or who are over 21 and legally dependent.

Article 8.2 provides that British citizens may participate in civil service recruitment processes, provided that the deadline for application to participate therein is prior to the effective withdrawal date of the United Kingdom. Elaborating on the general provisions regulating said recruitment processes, Article 8.2 sets forth that UK nationals must meet the requirements for entry into the civil service at the deadline for submission of applications to participate therein.

Finally, in Article 8.3, consideration is given to the possibility of enabling UK nationals to acquire public employee status as contractual staff members, by providing that Article 57.4 of the consolidated text of the Act on the Basic Statute of Public Employees shall apply: "*Foreigners (...) with legal residence in Spain may enter the public administrations, as contractual staff, under the same*

*conditions as Spanish citizens*". This provision is also in line with Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Foreigners in Spain and their Social Integration, as well as the provisions implementing this Law, given that foreign residents who meet the requirements set forth in these provisions have the right to pursue a remunerated activity on behalf of a third party, and are eligible for inclusion in the Social Security system, pursuant to prevailing legislation.

The next Part of Chapter II is Part 4, entitled "Labour Relations", which guarantees the continued application of the pertinent legal provisions to UK nationals posted in Spain, as well as the maintenance of the European Works Councils.

Part 5 of the same Chapter, entitled "Social Security", contains, in two Articles, the measures necessary to protect the workers of the British and Spanish Social Security systems in the absence of an international instrument permanently regulating the coordination of the two systems, regarding those aspects that are considered most relevant and which require urgent action. Such measures refer exclusively, in this sphere, to those situations that arose prior to the withdrawal date of the United Kingdom.

Article 11 includes measures aimed at protecting the Social Security entitlements of UK nationals who, on the withdrawal date or prior to said date, are or have been subject to Spanish Social Security legislation, or are subject to British legislation—regardless of whether they are in active employment or pensioners—and are resident in Spain on the withdrawal date.

Spain shall continue to export contributory pensions and their corresponding updates, recognized by our Social Security system for UK nationals, regardless of the country of residence of the beneficiaries.

Moreover, this Royal Decree-Law provides for the accumulation of periods of insurance credited by UK nationals in Spain and in the United Kingdom prior to the withdrawal date, in order to give rise to entitlement and to calculate the amounts of contributory pensions for retirement, permanent disability, and bereavement, as well as benefits regarding temporary disability, maternity, and paternity, to which, where applicable, they may be eligible.

Furthermore, as regards UK nationals resident in Spain, the circumstances, events, benefits, or income that arise, occur, or are received in the United Kingdom prior to the withdrawal date shall produce the same effects as though they had arisen, occurred, or been received in Spain, for the purposes of the application of Spanish domestic legislation.

The measures included in this same Article 11 also provide UK nationals with access to unemployment benefits paid by Spain for contribution periods in the United Kingdom prior to the withdrawal date, when contributions have last been made in Spain and provided that residence in Spain is maintained.

Additionally, Article 12 includes Social Security measures aimed at protecting the entitlements of Spanish nationals affected by the United Kingdom's withdrawal, as well as those of the nationals of Member States of the European Union, of the European Economic Area, and of Switzerland.

Spanish pensioners under our system shall continue to receive their contributory pensions, as well as the corresponding updates and, where applicable, their recognized supplements to minimum pensions, even when they reside in the United Kingdom after the withdrawal date.

Similarly, and in parallel with the provisions of Article 11 for UK nationals, Spanish nationals with contributions in the UK and in Spain credited prior to the withdrawal date shall benefit from the accumulation of periods of insurance, in order to give rise to entitlement and to calculate the amounts of contributory pensions for retirement, permanent disability, and bereavement, as well as benefits regarding temporary disability, maternity, and paternity, to which, where applicable, they may be eligible.

Furthermore, as regards Spanish nationals resident in the United Kingdom, the circumstances, events, benefits, or income that arise, occur, or are received in the United Kingdom prior to the withdrawal date shall produce the same effects as though they had arisen, occurred, or been received in Spain, for the purposes of the application of Spanish domestic legislation.

The measures included in this same Article 12 also provide that contribution periods completed in the United Kingdom or in Gibraltar prior to the withdrawal date be taken into account in the recognition of those unemployment benefits funded by Spain for Spanish nationals and for nationals of EU Member States, as long as contributions have last been made in Spain and said individuals maintain their residence in Spain.

Article 12 also includes a specific contingency measure whereby EU citizens residing in Spain who travel daily to work in Gibraltar shall have access to the unemployment benefits recognized by Spain for contribution periods completed in Gibraltar before and after the withdrawal date. A particular aspect of this contingency measure is that such individuals need not have paid contributions into the Spanish Social Security system.

Part 6 of Chapter II sets forth the rules applicable to the provision of healthcare, in the absence of an express—bilateral or multilateral—international instrument, rooted in two basic principles: continuity and reciprocity. Thus, the Royal Decree-Law expressly provides that, during a period of 21 months from its entry into force, Spain shall continue to provide healthcare under the same terms and conditions established prior to the withdrawal of the United Kingdom from the European Union, provided that the United Kingdom guarantees these same conditions to those persons entitled to healthcare funded by Spain.

Moreover, to ensure the proper provision of healthcare, this Royal Decree-Law establishes the validity of the health cards already issued, as well as those documents that must be provided in the absence of said health cards to be able



to receive healthcare in Spain. Additionally, it details the characteristics of the invoicing and reimbursement procedure, and attributes the competence for management of the procedures deriving from the provisions set forth herein to the National Social Security Institute and the Social Marine Institute [*Instituto Social de la Marina*].

Part 7 of Chapter II provides that students graduating from the education systems of the United Kingdom or of Gibraltar during the 2019-2020 and 2020-2021 academic years may continue to participate in the procedures for access to Spanish universities under the same terms set out for students graduating from the education systems of EU Member States, provided that said students meet the academic requirements of their education systems to access their universities.

Chapter III regulates international police and judicial cooperation. With the withdrawal of the United Kingdom from the European Union, the following laws and instruments shall cease to apply:

- Act 23/2014, of 20 November, on mutual recognition of decisions in criminal matters in the European Union;
- Act 11/2003, of 21 May, on Joint Investigation Teams in the framework of the European Union;
- Organic Law 7/2014, of 12 November, on exchange of information on criminal records and consideration of judicial decisions in criminal matters in the European Union;
- Act 31/2010, of 27 July, on simplifying the exchange of information and intelligence between law enforcement services of the Member States of the European Union, and;
- judicial cooperation instruments in civil and commercial matters whose scope is limited to the European Union.

Consequently, as of the aforementioned date, international judicial cooperation procedures between the two countries shall be governed by the prevailing international agreements between the parties and by any applicable domestic legislation.

To this end, the bilateral treaties and agreements formalized between Spain and the United Kingdom prior to the accession of the two States to the European Union, and which were replaced by EU Law, such as the Extradition Treaty formalized between Spain and the United Kingdom in London on 22 July 1985, shall not automatically regain their validity due to the withdrawal of the United Kingdom from the European Union, and therefore they are not considered to be included among the international agreements to which this Royal Decree-Law refers.

It is therefore necessary to specify the transitional regime applicable to police and judicial cooperation procedures, identifying whether these procedures were commenced before or after the entry into force of this Royal Decree-Law.

Chapter IV, entitled “Economic Activities”, is divided into four Parts.

Part 1 establishes a framework for guaranteeing the continuity of contracts for financial services rendered in Spain by financial institutions established in the United Kingdom or in Gibraltar. A withdrawal of the United Kingdom from the European Union without an agreement could have an impact on the financial system, given that London is one of the world's major financial centres. To ensure that the rise in uncertainty and the loss of access to the European market does not affect financial stability or have negative impacts for financial services customers, Part 1 of Chapter IV contains contingency measures related to financial services. These measures supplement those adopted by the European Commission, which has limited its action to safeguarding the key functions of the European financial system that depend on access to the UK market.

Losing the EU passport will mean that financial institutions established in the United Kingdom or in Gibraltar will have to adapt to the regimes for third countries in order to continue providing services in Spain, including those services arising from contracts signed before—but expiring after—the United Kingdom's withdrawal. To strengthen legal certainty and customer protection and avoid any risk to financial stability, Article 19 of this Royal Decree-Law confirms that the validity of contracts shall not be affected by the United Kingdom's withdrawal, a fact that the European Commission has already highlighted in its communications. Furthermore, a temporary regime is established to ensure that adaptation to the regimes for third countries does not entail a disruption in the provision of services associated with these contracts or, alternatively, to facilitate the relocation or termination of contracts if the entity does not wish to continue their activity in Spain. The temporary regime is established for activities subject to authorization. Activities relating to the management of contracts that do not require authorization may continue to be pursued without the need to adhere to the temporary regime.

Part 2 of Chapter IV authorizes the customs authorities to begin processing, as of the publication of this Royal Decree-Law and without waiting for its entry into force, the requests for decisions provided for in Article 22 of the Union Customs Code submitted by the operators affected, anticipating the consideration of the United Kingdom as a third State.

Part 3 of Chapter IV regulates the transitional situation in which economic operators from the United Kingdom and Gibraltar are placed as regards public procurement procedures. The purpose of this regulation is to provide legal certainty and avoid harming those economic operators that trusted in the European project and participated in public procurement procedures commenced prior to the United Kingdom's withdrawal from the European Union. In these cases, British economic operators shall have the same consideration as companies belonging to Member States of the European Union. This situation is, furthermore, in line with the transitional law governing public procurement in Spain.

Moving on to Part 4, the objective of Article 22 is to find a suitable solution for those citizens residing in Spain who hold a British driving licence that is

currently valid to drive in our country as a licence issued by a country that is an EU Member State, but which will cease to be valid upon the United Kingdom's withdrawal from the European Union.

For this reason, a transitional nine-month period has been established, during which holders of a driving licence issued by British authorities who have acquired residence in Spain shall be able to exchange this driving licence for a Spanish licence, pursuant to prevailing traffic legislation, which shall enable them to continue driving in our country despite the United Kingdom's withdrawal from the European Union.

The above notwithstanding, during this nine-month transitional period, this exchange shall be possible provided that the current verification system for driving licences established in the framework of the European Union is maintained. Were this system not to be maintained, it would not be possible to exchange driving licences issued by the United Kingdom.

After this nine-month period has elapsed, driving licences issued by British authorities shall be subject to Spanish law regarding driving licences issued by third countries, and it shall no longer be possible to exchange them for Spanish licences, until a bilateral agreement for the exchange of driving licences is formalized with the United Kingdom.

As regards the exchange of driving licences issued in other Member States or in third countries, pursuant to Articles 18 and 21 of the General Regulation for Drivers, approved by Royal Decree 818/2009, of 8 May, licence holders are required to have established their habitual residence in Spain, a concept that is defined in Additional Provision Two of the aforementioned General Regulation.

Article 23 affirms that current authorizations that were granted in application of Article 2 of the Regulation on the Control of Foreign Trade of Defence Material, of Other Material and of Dual-use Products and Technologies, approved by Royal Decree 679/2014, of 1 August, for which the country of destination or of origin is the United Kingdom, shall remain valid.

Regarding the provisions of Article 24, and given that prior authorizations and consent for transfers of weapons, explosives, pyrotechnic articles, and ammunition, issued prior to the date of the United Kingdom's withdrawal from the European Union, meet security requirements and conditions, as the suppliers and recipients have been verified, it is considered appropriate to allow the maintenance of said authorizations until their expiry date, provided that there is reciprocity on the part of the UK authorities. Article 24 also specifies that any explosive or pyrotechnic article whose conformity assessment procedure involved the participation of a UK notified body may not be placed on the market as of the date of the United Kingdom's withdrawal from the European Union.

Chapter V includes provisions on land transport, which allow the activity of transport undertakings between Spain and the United Kingdom, provided that

due conditions of reciprocity are respected, as well as public services relating to the departure of passengers travelling to an airport in the United Kingdom.

Article 25 sets forth measures aimed at enabling the carriage of goods by transport undertakings established in the United Kingdom from or to Spain, provided that said undertakings are authorized to engage in transport activities in the United Kingdom, except for carriage that is currently liberalized under EU law.

Article 26 stipulates that the international treaties to which the United Kingdom and Spain—or the European Union—are party, or the rules of international organizations of which the United Kingdom and Spain—or the European Union—are members shall serve as a framework applicable to the occasional carriage of passengers by bus in Spanish territory by undertakings established in the United Kingdom, given that the United Kingdom shall formally accede to the Interbus Agreement on 1 April 2019.

Furthermore, authorizations for regular international carriage of passengers currently in force between the territory of the United Kingdom and the territory of Spain shall remain valid until their expiry date.

As regards airport services, the United Kingdom's withdrawal from the European Union will have a significant impact on the airport charges received by AENA S.M.E., S.A., pursuant to Act 21/2003, of 7 July, on Air Safety, and to the Annual Resolutions of its Board of Directors, which sets these charges annually with effect as of 1 March.

In this regard, for the purposes of the airport charges provided for in Act 21/2003, the consideration of the United Kingdom as an international destination shall be deferred until 28 February 2020, in order to be able to ease the impact of this change, minimizing the effect it could have on the arrival of British passengers.

This Royal Decree-Law concludes with the Additional and Final Provisions necessary to complete the regulation.

Additional Provision One, taking into account the implications of the United Kingdom's withdrawal for trade relations with that State, and the need to support Spanish companies in this situation, authorizes ICEX España Exportación e Inversiones, E.P.E., M.P. to recruit eight contractual staff members, within the technical professional group, in addition to those corresponding to its staff turnover rate. These additional personnel are required to strengthen both ICEX's activity in Spain and at the Spanish Economic and Commercial Office in London.

Similarly, Additional Provision Two authorizes the Port Authorities to recruit 50 additional contractual staff members to guarantee security in port operations, both as concerns compiling the corresponding specific documentation, and controlling passenger tickets on regular routes, as well as goods.

Additional Provision Three sets forth the applicability of the regime governing the carriage of goods and passengers by bus, in the case of the carriage of goods and passengers by bus from or to Gibraltar.

Additional Provision Four regulates applications for the recognition or declaration of equivalence of degrees from UK universities, centres, and institutions. The documents required in the application process do not need to bear the Hague Apostille as long as the applications are submitted to the Spanish authorities prior to the effective withdrawal of the United Kingdom.

Pursuant to Additional Provision Five, in those scenarios in which it is necessary to formalize public sector contracts in order to implement the measures contained in this Royal Decree-Law, or to adapt a situation to the consequences of the United Kingdom's withdrawal from the European Union, Articles 119 and 120 of Act 9/2017, of 8 November, on Public Sector Contracts, may apply, in the terms set forth therein.

Final Provision One sets forth that the regulatory provisions that are amended by this Royal Decree-Law could, in turn, be amended by legal provisions with the status of regulation, while Final Provision Two sets forth the State's empowering legislation, listing the specific provisions that are enacted under said powers.

Final Provision Three sets forth a simplified regime for the issue of veterinary, healthcare, and plant protection certificates for agricultural, livestock, and food products which shall be required for future exportation to the United Kingdom.

Pursuant to Final Provision Four, the measures included in this Royal Decree-Law shall be financed in accordance with General Budget Act 47/2003, of 26 November, subject to budgetary availability.

Final Provision Five authorizes the Government and the heads of the Ministries, within the scope of their powers, to enact such provisions as are necessary to implement this Royal Decree-Law. Similarly, it authorizes the Government to extend, by Royal Decree, the deadlines established herein, and declares *ex lege*, for the purposes of Article 27 of Act 50/1997, of 27 November, on government, the urgency with which the draft general provisions whose purpose is to implement this Royal Decree-Law are to be processed. This Provision also stipulates that the Council of Ministers must be informed of any initiatives undertaken in this regard. In the Decisions acknowledging it has been informed thereof, the Council of Ministers shall establish, where applicable, the deadline by which the opinion of the Council of State must be issued, when such an opinion is mandatory. Any other mandatory opinions must be issued by the corresponding advisory bodies pursuant to the urgent procedure regulated for each one.

Finally, Final Provision Six specifies that this Royal Decree-Law shall enter into force on the date on which the Treaties of the European Union cease to apply to

the United Kingdom, pursuant to Article 50.3 of the Treaty on European Union, thus covering the legal vacuum that would arise under said circumstance.

The above notwithstanding, this Royal Decree-Law shall not enter into force if, prior to said date, a withdrawal agreement formalized between the European Union and the United Kingdom, pursuant to Article 50.2 of the Treaty on European Union, has entered into force.

## V

This Royal Decree-Law is in line with the principles of good regulation set forth in Article 129 of Act 39/2015, of 1 October, on the Common Administrative Procedure of the Public Administrations.

The above clearly shows that the principles of necessity and effectiveness have been fully respected. Moreover, this Royal Decree-Law complies with the principle of proportionality, containing as it does the regulations that are crucial to achievement of the aforementioned objectives, as well as with the principle of legal certainty.

As regards the principle of transparency, as permitted by Article 26.11 of Act 50/1997, of 27 November, on government, the procedures corresponding to prior public consultation, and public information and hearings, have not been conducted.

The mandatory report has been requested from the Office for Coordination and Regulatory Quality.

## VI

Article 86 of the Constitution authorizes the Government to enact Decree-Laws “in cases of extraordinary and urgent need”, provided that they do not affect the regulation of the basic State institutions, the rights, duties and freedoms of citizens contained in Title I of the Constitution, the system of the Autonomous Communities, or general electoral law.

This Royal Decree-Law is a constitutionally legitimate instrument, provided that, as our Constitutional Court has repeatedly demanded (Rulings 6/1983, of 4 February, legal ground no. 5; 11/2002, of 17 January, legal ground no. 4; 137/2003, of 3 July, legal ground no. 3; 189/2005, of 7 July, legal ground no. 3; 68/2007, legal ground no.10; and 137/2011, legal ground no. 7), the purpose of the urgent legislation is to address a specific situation, within the Government’s objectives, which—for reasons that are difficult to foresee—requires immediate legislative action in a shorter period than that required by normal channels, or by the urgent procedure for the parliamentary enactment of laws, especially when it is not within the Government’s powers to decide which procedure shall be followed.

The existence of “a necessary connection between the defined situation of urgency and the specific measure adopted to address it (Constitutional Court Rulings 29/1982, of 31 May, legal ground no. 3; 182/1997, of 20 October, legal ground no. 3; and 137/2003, of 3 July, legal ground no. 4)” must therefore be substantiated.

The withdrawal from the EU by a Member State invoking the procedure set forth in Article 50 of the Treaty on European Union constitutes an unprecedented event in the history of the European Union. Furthermore, in view of the imminent expiry of the period foreseen for the ratification of the Withdrawal Agreement, and given the significant consequences that would arise from the United Kingdom leaving the EU without an agreement—and therefore, without a transitional period—it is necessary to urgently adopt the measures required to minimize the upheaval that a non-orderly withdrawal would unavoidably entail.

In this respect, in keeping with the Action Plan adopted by the European Union, the purpose of this Royal Decree-Law is to establish those contingency measures, within the scope of the State’s powers, that are essential to facilitating a transition to the new situation, thus mitigating, as far as possible, the undesired impact of a no-deal withdrawal, and safeguarding the interests of those citizens and economic operators who exercised their rights under the freedoms granted by the Treaties.

Given the urgency with which these measures must be applied, it is clear that, were ordinary legislative procedure—even urgent legislative procedure—to be followed, these measures aimed at mitigating the effects of a withdrawal without an agreement could not be adopted on time, and therefore the Treaties and the entire EU acquis would cease to apply to relations with the United Kingdom on 30 March 2019.

As regards the prohibition against Decree-Laws affecting the rights, duties and freedoms of citizens regulated in Title I of the Constitution, a well-established doctrine of the Constitutional Court interprets it in the following terms, summarized in Constitutional Court Ruling 139/2016, of 31 July (legal ground no. 6):

*“1) Article 86.1 of the Spanish Constitution prevents Decree-Laws from affecting the rights, duties, and freedoms of citizens regulated in Title I of the Spanish Constitution, but this Court has rejected an extensive interpretation of said restriction that would render Decree-Laws ineffective as a type of legislation, making it impossible for them ‘to regulate, to a greater or lesser extent, any aspect of the subject matters included in Title I of the Constitution’.*

*2) The restrictive clause must be interpreted in such a way that it does not render Decree-Laws absolutely ineffective as a type of legislation; therefore, what is prohibited constitutionally is for Decree-Laws to regulate a general regime for these rights, duties and freedoms or to contradict the essential content or elements of any such rights (Constitutional Court Ruling 111/1983, of 2 December, legal ground no. 8, confirmed by other subsequent Rulings).*

3) *The Court must not focus solely on how the principle of non-delegable legislation relates to a specific subject matter, but rather it must assess whether the Decree-Law has a bearing on a right, duty, or freedom regulated in Title I of the Constitution. Such assessment requires taking into account the constitutional configuration of the right, duty or freedom affected in each case and even its place in the Constitutional system and the nature and scope of the specific regulation concerned (...)*”

This Royal Decree-Law respects the aforementioned doctrine of the Constitutional Court, given that it does not regulate the general regime of constitutional rights, duties and freedoms, nor does it contradict their essential content or elements, limiting itself to maintaining, on a temporary basis, the interests of UK nationals residing in Spain, as well as their family members.

By virtue hereof, availing of the authorization granted in Article 86 of the Spanish Constitution, at the proposal of the Vice-President of the Government and Minister of the Presidency of the Government, Relations with Parliament, and Equality; and of the Minister of Foreign Affairs, the European Union and Cooperation; the Minister of Justice; the Minister of Defence; the Minister of the Treasury; the Minister of the Interior; the Minister of Infrastructure; the Minister of Education and Vocational Training; the Minister of Labour, Migration and Social Security; the Minister of Industry, Trade and Tourism; the Minister of Agriculture, Fisheries and Food; the Minister of Territorial Policy and of the Civil Service; the Minister of Ecological Transition; the Minister of Economy and Business; the Minister of Health, Consumer Affairs and Social Welfare; and the Minister of Science, Innovation and Universities; and subject to prior deliberation by the Council of Ministers, at their meeting on 1 March 2019,

## **I HEREBY DECREE:**

### **CHAPTER I General Provisions**

#### **Article 1. Purpose**

The purpose of this Royal Decree-Law is to adopt measures to adapt Spanish law in preparation for the consequences of a withdrawal from the European Union (EU) of the United Kingdom of Great Britain and Northern Ireland (hereinafter, the United Kingdom, or UK), and of the Colony of Gibraltar (hereinafter, Gibraltar), without an agreement concluded pursuant to Article 50.2 of the Treaty on European Union.

#### **Article 2. Reciprocity and temporary measures**

1. When a period of two months has elapsed since the entry into force of this Royal Decree-Law, the measures regulated herein shall be rescinded, where expressly provided for, if the competent British authorities do not grant



reciprocal treatment to natural and legal persons of Spanish nationality in each of the areas affected.

Rescission of these measures shall be made effective through a Council of Ministers Decision—at the proposal of the Minister of Foreign Affairs, the European Union and Cooperation—and following a report from the Ministry with responsibilities in the corresponding area, which shall specify the effective date of the rescission.

2. Measures subject to a specific period shall cease to apply once the specified period has elapsed, unless the Government enters into an agreement to extend their duration.

## CHAPTER II Citizens

### Part 1

#### **Residence and employment of UK nationals residing in Spain, and of their family members**

##### **Article 3.** *Scope of application and proof of residence*

1. The provisions of Part 1 of Chapter II of this Royal Decree-Law shall apply to UK nationals resident in Spain prior to the withdrawal date, and to their family members, irrespective of the nationality of the latter. To this purpose, consideration as family members shall be accorded to those persons meeting the criteria set forth in Article 2 of Royal Decree 240/2007, of 16 February, on the entry, free movement, and residence in Spain of citizens of Member States of the European Union and other States party to the Agreement on the European Economic Area, as well as the other family members mentioned in Article 2 *bis* of said Royal Decree.

2. Residence in Spain prior to the withdrawal date may be proven, in the case of UK nationals:

a) By proof of possession of the registration certificate provided for in Article 7.5 of Royal Decree 240/2007, of 16 February, obtained prior to the withdrawal date.

b) By any other legally admissible means of evidence, in the event that this registration certificate has not been obtained prior to the withdrawal date. In such cases, an individual analysis of the person's status must be conducted in accordance with the procedure detailed in Article 4 of this Royal Decree-Law.

3. In the case of nationals of third countries who are family members of a UK national resident in Spain, residence in Spain prior to the withdrawal date may be proven:

a) By proof of possession of the card for family members of EU citizens referred to in Article 8 of Royal Decree 240/2007, of 16 February, obtained prior to the withdrawal date.

b) By any other legally admissible means of evidence, in the event that said card for family members of EU citizens has not been obtained prior to the withdrawal date. In such cases, an individual analysis of the person's status must be conducted in accordance with the procedure detailed in Article 4 of this Royal Decree-Law.

**Article 4.** *Documentation of UK nationals residing in Spain, and of their family members*

1. UK nationals resident in Spain prior to the withdrawal date, as well as their family members, shall be obliged to apply for the documentation corresponding to their new status, pursuant to the procedures established in the instructions approved to this purpose by the Council of Ministers within the framework of Additional Provision One, section 4, of the Regulation of Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Foreigners in Spain and their Social Integration, approved by Royal Decree 557/2011, of 20 April. These instructions shall be published in the *Boletín Oficial del Estado* [Official State Gazette].

2. Applications to obtain this documentation must be presented within 21 months of the United Kingdom's withdrawal from the European Union without an agreement. During this period, those UK nationals—and their family members—who were residing in Spain prior to the withdrawal date shall continue to have legal residence in Spain while their application is being processed. The registration certificates and the cards of family members of EU citizens referred to in the preceding Article shall remain valid until they are replaced with new documents, or until they expire, and shall constitute proof of the individual's legal residence in Spain.

3. If such UK nationals, or their family members, are already in possession of a previous registration certificate or a card for family members of EU citizens, the application must be submitted to the administrative unit specified in the instructions referred to in section 1 of this Article, which shall replace said certificate or card with a foreigner identity card.

4. Those individuals possessing neither a previous registration certificate nor a card for family members of EU citizens must submit their application, together with the documentation specified in the instructions referred to in section 1 of this Article, to the unit indicated in said instructions. Once this unit has issued a decision regarding the authorization, the individual must apply in person for a foreigner identity card. The Directorate-General of the Police shall be responsible for issuing these cards, at the places designated to this effect in the instructions to be approved by the Council of Ministers.

5. This documentation procedure shall take into account, in the terms set forth in the aforementioned instructions, prior periods of residence in Spain, as well as, where applicable, the residence status of the interested party, from among

the alternatives provided for in Articles 7.1 and 10 of Royal Decree 240/2007, of 16 February.

**Article 5.** *Acquisition of long-term residence*

1. UK nationals who were residing in Spain prior to the withdrawal date, and their family members, may obtain long-term residence permits when they have legally resided in Spain on a continuous basis for at least five years.

Residence periods in Spain as EU citizens, or as family members of EU citizens, shall be included in the calculation of these five years.

Continuity of residence, as well as the procedure for obtaining this permit, shall meet the stipulations set forth in Article 32 of Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Foreigners in Spain and their Social Integration, and in Chapter I of Title VI of the Regulation of said Organic Law.

2. However, those UK nationals who, prior to the withdrawal date, had obtained a permanent registration certificate, as well as those nationals of third countries—family members of a UK national—who, prior to the withdrawal date, had obtained a permanent card for family members of a citizen of the European Union, must apply in person for the foreigner identity card for long-term residents. The Directorate-General of the Police shall be responsible for issuing these cards, at the places designated to this effect. When applying for the foreigner identity card for long-term residents, the following documentation must be provided:

- a) Full and valid passport.
- b) Printed proof of payment of the corresponding fee.
- c) A photograph meeting the requirements set forth in the legislation on national identity documents.

In these cases, the requirement regarding legal and continuous residence of at least five years shall be presumed to have been met.

Part 2  
**Frontier Workers**

**Article 6.** *Documentation of frontier workers who are UK nationals*

1. UK nationals residing outside Spain, who, on the withdrawal date, were operating as frontier workers in Spain, whether for a third party or on a self-employed basis, must apply for the corresponding documentation evidencing this status, pursuant to the procedures detailed in the instructions approved by the Council of Ministers within the scope of Additional Provision One, section 4, of the Regulation of Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Foreigners in Spain and their Social Integration.

The application for and processing of their frontier worker documentation shall not represent any obstacle to the undertaking of their activities in Spain.

2. Maintenance of the terms set forth in section 1 of this Article shall be subject to the competent British authorities offering reciprocal treatment to Spanish citizens, pursuant to Article 2.1.

### Part 3 **Professions and the Civil Service**

#### **Article 7.** *Access to and pursuit of a profession*

1. UK nationals who, on the date of the United Kingdom's effective withdrawal, were pursuing on a permanent basis in Spain a profession or professional activity for which they had obtained recognition of their professional qualifications may continue to pursue this profession or professional activity under the same terms in accordance with which said qualifications were recognized, provided that they meet the other conditions to which said practice is subject.

2. Those Spanish nationals or nationals of any other Member State of the European Union, as well as nationals of third countries accorded equal treatment under EU or domestic law, who are pursuing on a permanent basis in Spain a profession or professional activity for which they had obtained recognition of their professional qualifications acquired in the United Kingdom or in Gibraltar may continue to pursue their profession or professional activity under the same terms in accordance with which said qualifications were recognized, provided that they meet the other conditions to which said practice is subject.

3. UK nationals who, on the date of the United Kingdom's effective withdrawal, were pursuing on a permanent basis in Spain a profession or professional activity for which EU citizenship is a requirement—as regards access to and pursuit thereof—may continue to pursue said profession under the same conditions, without needing to complete any further procedures, provided that they comply with any other requirements to which such pursuit is subject.

4. UK nationals may participate in any proficiency tests for access to pursue certain professions, and need not apply for an exemption from the nationality requirements to take those proficiency tests for which said exemption might be required, provided that said tests have been officially announced prior to the date of the United Kingdom's effective withdrawal.

5. Applications for the official recognition of professional qualifications obtained in the United Kingdom, in Gibraltar, or in any EU Member State submitted by UK nationals to the Spanish authorities prior to the entry into force of this Royal Decree-Law, or within the following five years, shall be processed pursuant to the legal framework prevailing prior to the United Kingdom's withdrawal, provided that the studies or activities leading to the granting of said professional

qualifications were begun before said date, without prejudice to the provisions of section 7 of this Article.

6. Applications for the official recognition of professional qualifications obtained by Spaniards or by nationals of any other Member State of the European Union in the United Kingdom or in Gibraltar submitted to the Spanish authorities prior to the entry into force of this Royal Decree-Law, or within the following five years, shall be processed pursuant to the legal framework prevailing prior to the United Kingdom's withdrawal, provided that the studies or activities leading to the granting of said professional qualifications were begun before said date, without prejudice to the provisions of section 7 of this Article.

7. Applications for the automatic recognition of formal qualifications, pursuant to Articles 29 *et seq.* of Royal Decree 581/2017, of 9 June, transposing into Spanish law Directive 2013/55/EU of the European Parliament and of the Council, of 20 November 2013, amending Directive 2005/36/EC on the recognition of professional qualifications, and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (IMI Regulation), submitted to the Spanish authorities prior to the entry into force of this Royal Decree-Law, or within the following five years, may be subject to said recognition, provided that the studies leading to the granting of said formal qualifications were begun prior to a no-deal withdrawal, irrespective of the date on which the formal qualifications were granted. This section shall cease to apply if the United Kingdom or Gibraltar modifies the training required to obtain any of these formal qualifications, departing substantially from the minimum training conditions established at the European level. This circumstance must be confirmed in a Council of Ministers Decision.

8. UK nationals established in the United Kingdom, in Gibraltar, or in a Member State of the European Union—as well as nationals of a Member State of the European Union established in the United Kingdom or in Gibraltar—temporarily or occasionally pursuing a profession or professional activity in Spain under the conditions set forth in Title II of Royal Decree 581/2017, of 9 June, transposing into Spanish law Directive 2013/55/EU of the European Parliament and of the Council, of 20 November 2013, amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (IMI Regulation), and under other applicable prevailing legislation in Spain, may continue to pursue said profession or activity for the sole purpose of honouring contracts in force on the date of the United Kingdom's withdrawal from the European Union.

The persons referred to in the preceding paragraph who had made a prior declaration in Spain with a view to pursuing their profession or professional activity on a temporary or occasional basis, may continue to pursue it under the conditions set forth in Title II of Royal Decree 581/2017, of 9 June, for so long as said declaration remains valid, provided that the remaining applicable conditions are respected.

9. During the year following the date of the United Kingdom's withdrawal from the European Union, those professional services firms incorporated pursuant to the legislation of the United Kingdom or of Gibraltar, and whose head office or centre of principal activity is located in the United Kingdom or in Gibraltar, and which were operating on a regular basis in Spain prior to the withdrawal date, may continue to undertake in Spain those operations that constitute their corporate object, subject to compliance with the requirements set forth in Act 2/2007, of 15 March, on Professional Services Firms, and other applicable legislation.

Pursuit of the corporate object referred to in the paragraph above must be carried out by persons who are members in Spain of the corresponding Professional Association.

10. During the year following the date of the United Kingdom's withdrawal from the European Union, statutory auditors and audit firms entered on the Official Register of Auditors at the date of the United Kingdom's withdrawal from the European Union shall not be affected by the consideration of the United Kingdom as a third country for the purpose of compliance with the requirements set forth in Articles 10 and 11 of Audit Act 22/2015, of 20 July. After the aforementioned year has elapsed, the United Kingdom shall be considered a third country for the aforementioned purposes.

11. The provisions of this Article, except for sections 2 and 6, are subject to reciprocal treatment by the competent British authorities, under the terms set forth in Article 2.1.

**Article 8.** *Rules applicable to the acquisition and maintenance of public employee status of UK nationals rendering services to Spanish public administrations*

1. UK nationals who are career or temporary civil servants, or probationers, or whose personal circumstances meet the criteria set forth in Article 57.2 of the consolidated text of the Act on the Basic Statute of Public Employees, approved by Royal Legislative Decree 5/2015, of 30 October, who render services to Spanish public administrations and who gained access to or commenced said activity prior to the effective withdrawal of the United Kingdom, shall continue to render their services under the same conditions.

2. UK nationals may participate in recruitment processes for civil service positions in Spain's public administrations, provided that the deadline for submitting applications to participate therein is prior to the United Kingdom's effective withdrawal date.

3. UK nationals may maintain their public employee status as contractual staff pursuant to Article 57.4 of the consolidated text of the Act on the Basic Statute of Public Employees.

## **Labour Relations**

**Article 9.** *Transitional regime applicable to workers temporarily posted in the framework of the provision of services*

Companies established in Spain which, on the withdrawal date, have workers temporarily posted in the United Kingdom pursuant to Directive 96/71/EC of the European Parliament and of the Council, of 16 December 1996, concerning the posting of workers in the framework of the provision of services, must continue to apply UK legislation transposing said Directive 96/71/EC during these workers' posting periods.

This Article shall only be applicable if the competent British authorities recognize reciprocal treatment for workers posted temporarily in Spain by companies established in the United Kingdom pursuant to Directive 96/71/EC, under the terms set forth in Article 2.1 of this Royal Decree-Law.

**Article 10.** *Maintenance of European Works Councils in Community-scale undertakings and Community-scale groups of undertakings with the United Kingdom*

European Works Councils or alternative procedures for informing and consulting employees that were constituted or agreed under Act 10/1997, of 24 April, on the right to information and consultation of workers in Community-scale undertakings and Community-scale groups of undertakings, prior to the date of the United Kingdom's withdrawal from the European Union, by Community-scale undertakings and Community-scale groups of undertakings in which employees or companies from the United Kingdom participate and which have their head office in Spain, shall remain in force under the terms set forth in said Act, provided that these terms are not amended pursuant to said Act.

## **Part 5**

### **Social Security**

**Article 11.** *Social Security of UK nationals*

Unless a bilateral or multilateral international instrument on the coordination of the Spanish and UK Social Security systems is adopted previously, the following rules shall apply during a period of 21 months from the date of the United Kingdom's withdrawal from the European Union without an agreement:

a) UK nationals who, after the United Kingdom's withdrawal date, reside and work legally in Spain, being subject to Spanish Social Security legislation, shall have the same Social Security rights and obligations as Spanish nationals, pursuant to Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Foreigners in Spain and their Social Integration, and to the consolidated text of

the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October.

b) Persons who, on the withdrawal date, are residing and working legally in Spain, remaining subject to British Social Security legislation by virtue of the application of Title II of Regulation (EC) No 883/2004, of 29 April, may continue in this situation until the end of the period provided for, where applicable, in the aforementioned Regulation.

Once the aforementioned period has elapsed, should said workers continue to pursue their professional activity in Spain, they shall become subject to Spanish Social Security legislation, having first completed with the Social Security General Treasury the corresponding procedures to be registered under the corresponding Social Security scheme.

This provision shall only be applicable in the event that reciprocal treatment is extended by the competent British authorities to Spanish workers working and residing legally in the United Kingdom or in Gibraltar, remaining subject to Spanish legislation under Title II of the aforementioned Regulation, pursuant to Article 2.1.

c) UK nationals who are pensioners under the Spanish Social Security system and who are residing outside Spain on the withdrawal date shall continue to receive their contributory pensions and, as the case may be, any corresponding revaluations, after that date, with the exception of supplements to minimum pensions.

d) Without prejudice to the possibility of performing a separate calculation of the corresponding contributory pensions pursuant to Spanish and British legislation, where applicable, insurance periods in the British Social Security system credited prior to the withdrawal date to UK nationals who, on said date, had also completed insurance periods in Spain and, where applicable, in another Member State of the European Union, of the European Economic Area, or in Switzerland, shall be taken into account, at the due moment, for eligibility purposes and for the calculation of the corresponding retirement, permanent disability, and bereavement pensions to which said nationals might be eligible, adding together all of the credited periods in any of these countries, under the same terms and conditions established prior to the withdrawal date. Spain shall only remain responsible for payment of the proportional amount corresponding to the insurance periods credited in the Spanish Social Security system.

e) Similarly, insurance periods completed in the United Kingdom and in Gibraltar, prior to the withdrawal date, by UK nationals who, prior to said date, had been subject to Spanish Social Security legislation, shall be added, if necessary, to those insurance periods credited in Spain, for the purpose of entitlement—with a charge to the Spanish Social Security system—to temporary disability, maternity, and paternity benefits. If on the withdrawal date said benefits had already been recognized, payment thereof shall be made until the conclusion of the legally established duration period.



The measures set forth in sections d) and e) of this Article are subject to the United Kingdom's offering reciprocal treatment to Spanish nationals who were working in that country on the aforementioned date, pursuant to Article 2.1.

f) If, under Spanish legislation, enjoyment of Social Security benefits or of other income produces certain legal effects, the corresponding provisions shall be equally applicable in the case of enjoyment, by UK nationals, of equivalent benefits acquired under the corresponding British legislation, or of income earned in the territory of that State prior to the withdrawal date.

g) If, under Spanish legislation, legal effects are attributed to the concurrence of certain circumstances or events, Spanish institutions shall take into account, with regard to UK nationals, similar, related circumstances or events that had occurred in the United Kingdom or in Gibraltar prior to the withdrawal date as though they had occurred in Spanish territory, provided that the competent British authorities offer reciprocal treatment to Spanish nationals who find themselves in the same situation, pursuant to Article 2.1.

h) For the purpose of access by UK nationals to the benefits for unemployment or cessation of activity regulated in Titles III and V of the consolidated text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October, the insurance periods credited in any EU Member State prior to the withdrawal date, including those completed in the British Social Security system, shall be taken into account for the calculation of unemployment benefits when contributions have last been made in Spain and provided that the right to reside legally in Spain is maintained. This shall be applied pursuant to EC Regulations on the coordination of Social Security systems.

**Article 12.** *Social Security of nationals of Spain, of other Member States of the European Union, of the European Economic Area, and of Switzerland*

Unless a bilateral or multilateral international instrument on the coordination of the Spanish and UK Social Security systems is adopted previously, the following rules shall apply during the 21 months following the United Kingdom's withdrawal from the European Union without an agreement:

a) Those persons who, on the withdrawal date, are residing and working legally in the United Kingdom or in Gibraltar, remaining subject to Spanish legislation by application of Title II of Regulation (EC) No 883/2004, of 29 April, shall continue to be subject to Spanish legislation until the end of the period envisaged, where applicable, in the aforementioned Regulation, as long as the competent British authorities act in reciprocity with this Royal Decree-Law as regards those persons working in Spain who are subject to British Social Security legislation pursuant to Title II of the aforementioned Regulation.

Any activity carried out on board a vessel flying the British flag shall be considered to have been undertaken in said State. However, persons employed on board a vessel flying the British flag and remunerated for such activity by an undertaking or a person whose registered office or place of business is in an EU

Member State shall be subject to the legislation of said Member State if they reside in that State.

b) Pensioners under the Spanish Social Security system who are residing in the United Kingdom or in Gibraltar on the withdrawal date shall continue to receive their contributory pensions and, where applicable, the corresponding revaluations, as of that date.

Supplements to minimum pensions that vested prior to the date of the United Kingdom's withdrawal from the European Union shall continue to be paid in the event that the pensioner resides in the United Kingdom or in Gibraltar.

c) Without prejudice to the possibility of performing a separate calculation of the corresponding contributory pensions pursuant to Spanish and British legislation, where applicable, insurance periods in the British Social Security system credited prior to the withdrawal date, shall be taken into account, at the due moment, for eligibility purposes and for the calculation of the corresponding retirement, permanent disability, and bereavement pensions to which they might give rise, adding together all the periods credited in Spain and, where applicable, in any other Member State of the European Union, of the European Economic Area, or in Switzerland, under the same terms and conditions established prior to the withdrawal date. Spain shall, however, only remain responsible for payment of the corresponding proportional amount, depending on the insurance periods credited in the Spanish Social Security system.

d) Similarly, insurance periods completed in the United Kingdom prior to the withdrawal date shall be added, if necessary, to insurance periods credited in Spain, for the purpose of entitlement—with a charge to the Spanish Social Security system—to temporary disability, maternity, and paternity benefits. If on the withdrawal date said benefits had already been recognized, payment thereof shall be made until the conclusion of the legally established duration period.

e) If, under Spanish legislation, enjoyment of Social Security benefits or of other income produces certain legal effects, the corresponding provisions shall be equally applicable in the case of enjoyment of equivalent benefits acquired under British legislation, or of income earned in the territory of the United Kingdom or in Gibraltar prior to the withdrawal date.

f) If, under Spanish legislation, legal effects are attributed to the concurrence of certain circumstances or events, Spanish institutions shall take into account similar, related circumstances or events that occurred in the United Kingdom or in Gibraltar prior to the withdrawal date, as though they had occurred in Spanish territory.

g) For the purpose of access by nationals of EU Member States to the benefits for unemployment or cessation of activity regulated in Titles III and V of the consolidated text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October, the insurance periods credited in the British Social Security system prior to the withdrawal date shall be taken into

account in the calculation of the corresponding unemployment benefits when contributions have last been made in Spain, which shall be applied pursuant to EC Regulations on the coordination of Social Security systems.

h) EU citizens who reside in Spain and travel daily to work in Gibraltar shall have access to the unemployment benefits mentioned in section g) of this Article, for the insurance periods credited in Gibraltar before and after the withdrawal date, without having to have made their last contributions in Spain.

In the case of insurance periods credited or completed in Gibraltar after the withdrawal date, reimbursement shall be requested from the corresponding British authorities of the benefits paid by Spain when an international instrument is concluded establishing the collaboration mechanisms necessary for the reimbursement and concession of unemployment benefits to the workers mentioned in this section.

## Part 6 Healthcare

### **Article 13.** *Access to healthcare*

1. Unless a bilateral or multilateral international instrument is adopted previously, the following rules shall apply during the 21 months following the United Kingdom's withdrawal from the European Union without an agreement:

a) Persons entitled to healthcare in the United Kingdom or in Gibraltar funded by the corresponding British entities, shall receive healthcare from the Spanish National Health System, under the same terms and conditions established prior to the withdrawal date, as long as the United Kingdom provides healthcare to Spanish citizens and nationals of other countries entitled to healthcare funded by Spain, under the same terms and conditions established prior to the withdrawal date, and reimburses Spain for expenses deriving from the healthcare provided by the Spanish National Health System to UK nationals or citizens of any other country entitled to healthcare in the United Kingdom or in Gibraltar funded by the corresponding British entities.

b) The health cards issued to the citizens referred to in section 1.a) above shall remain valid and fully effective for receiving healthcare from the National Health System.

In the case of temporary stays and scheduled treatments, the persons referred to in section 1.a) of this Article must provide documentation evidencing healthcare coverage funded by the corresponding British entities, which shall be accepted by all the healthcare centres included in the National Health System.

When the persons referred to in section 1.a) of this Article are resident in Spain and do not have a health card, they must apply for a document from the National Social Security Institute corroborating their entitlement to healthcare

funded by the corresponding British entities, issued by said entities to this purpose.

c) Entitlement to healthcare funded by the corresponding British entities of the persons referred to in section 1.a) of this Article shall take priority over any possible entitlement deriving from residence or stay in Spain.

d) Spain shall pay the corresponding British entities for the healthcare provided by their National Health Service to the citizens of Spain and other countries who are entitled to healthcare funded by Spain, under the same conditions prevailing before the withdrawal date, provided that these entities act reciprocally.

e) Spain shall invoice the corresponding British entities for the healthcare costs envisaged in section 1.a) of this Article.

f) The procedures for invoicing and reimbursing the costs of the healthcare provided pursuant to this Article, as well as the amounts and the calculation criteria used to update and settle them, shall be those employed until the date of the United Kingdom's withdrawal from the European Union.

g) As of the withdrawal date, management of the procedures set forth in this Article shall remain under the responsibility of the National Social Security Institute or the Social Marine Institute [*Instituto Social de la Marina*].

2. Drugs prescribed in the United Kingdom shall continue to be dispensed under the terms set forth in Royal Decree 1718/2010, of 17 December, on medical prescriptions and dispensing orders, provided that the United Kingdom acts reciprocally.

3. In the event that the equivalent treatment or reimbursement of expenses referred to in sections 1 and 2 of this Article is not extended, the provisions of Article 2.1 of this Royal Decree-Law shall apply.

## Part 7 Education

### **Article 14.** *Access to university*

Students graduating from the education systems of the United Kingdom or of Gibraltar during the 2019-2020 and 2020-2021 academic years may continue to participate in the procedures for access to Spanish universities under the same terms set out for students graduating from the education systems of EU Member States, provided that said students meet the academic requirements of their education systems to access their universities.

## CHAPTER III International Police and Judicial Cooperation

**Article 15.** *Transitional regime for procedures for mutual recognition of decisions in criminal matters in the European Union with the United Kingdom*

Any procedures carried out for the issue, recognition, and execution of instruments for mutual recognition under Act 23/2014, of 20 November, on mutual recognition of judicial decisions in criminal matters in the European Union, commenced before the entry into force of this Royal Decree-Law, shall be concluded pursuant to the provisions of that Act. Once the procedure has been concluded, the effects thereof shall be governed by the international agreements in force between Spain and the United Kingdom, and by any applicable domestic legislation.

The commencement date of the respective procedures for the purposes of the preceding paragraph shall be as follows:

- a) For European Arrest Warrants, the date of the requested individual's arrest in Spain.
- b) For other mutual recognition instruments, the date of receipt of the corresponding request.

European Arrest Warrants in force after the United Kingdom's withdrawal from the United Union shall cease to have effect. To provide continuity to the investigations begun before the withdrawal process, the use of the mechanisms established by Interpol for information exchange shall be encouraged, as well as any other bilateral police cooperation agreement between Spain and the United Kingdom.

International judicial cooperation procedures in criminal matters that are commenced subsequent to the entry into force of this Royal Decree-Law shall be governed, as regards their issue by Spain's judicial bodies or their recognition and execution in Spain, by the prevailing international agreements between the parties and by any applicable domestic legislation.

**Article 16.** *Transitional regime applicable to ongoing joint investigation teams*

The joint investigation teams (JIT) of Spain and the United Kingdom that have not expired at the date of entry into force of this Royal Decree-Law shall be maintained under Act 11/2003, of 21 May, on JITs in the framework of the European Union, until the dates established in their respective JIT agreements. However, once the JIT's initially established duration has expired, the legal regime applicable to any extensions, and to their enlargement and functioning, shall be that applying to the creation and functioning of JITs between Spain and third States.

**Article 17.** *Transitional regime for judicial cooperation procedures in civil and commercial matters with the United Kingdom*

Any judicial cooperation procedures in civil and commercial matters commenced before the entry into force of this Royal Decree-Law under any of

the instruments of the European Union shall be concluded pursuant to the law prevailing at the time of their commencement. Once the procedure has been concluded, the effects thereof shall be governed by the international agreements in force between Spain and the United Kingdom, and by any applicable domestic legislation. For this purpose, the date of commencement of the respective procedures shall be the date of receipt of the request.

Judicial cooperation procedures in civil and commercial matters commenced subsequent to entry into force of this Royal Decree-Law shall also be subject to the multilateral international agreements in force between Spain and the United Kingdom and any applicable domestic legislation.

**Article 18.** *Information exchange*

1. Procedures for the exchange of information between Spain and the United Kingdom on the criminal convictions of natural persons based on Organic Law 7/2014, of 12 November, on Exchange of Information on Criminal Records and Effects of Judgments in Criminal Matters in the European Union, commenced before the entry into force of this Royal Decree-Law, shall be concluded pursuant to the aforementioned Organic Law. Once the procedure has been concluded, the effects thereof shall be governed by the international agreements in force between the two States, and by any applicable domestic legislation.

The commencement date of the respective procedures for the purposes of the previous paragraph shall be the date on which the request for information is received by the competent authority of the requested State.

Procedures for the exchange of information on criminal records that are commenced subsequent to the entry into force of this Royal Decree-Law shall be governed, as regards their issuance by Spain's judicial bodies or their recognition and execution in Spain, by the provisions of the prevailing international agreements between the parties and by any applicable domestic legislation.

2. The procedures for information and intelligence exchange between the security services of Spain and of the United Kingdom under Act 31/2010, of 27 July, regarding simplification of information and intelligence exchange between the security services of European Union Member States, commenced before the entry into force of this Royal Decree-Law shall be completed pursuant to said Act. Once the procedure has been concluded, the effects thereof shall be governed by the international agreements in force between the two States, and by any applicable legislation.

The commencement date of the respective procedures for the purposes of the previous paragraph shall be the date on which information or intelligence is requested by the competent security service of the requested State.

Procedures for the exchange of information and intelligence that are commenced subsequent to the entry into force of this Royal Decree-Law shall

be governed, as regards requests by the Spanish security forces or Spain's response to such requests, by the provisions of the prevailing international agreements between the parties and by any applicable domestic legislation.

## CHAPTER IV **Economic Activities**

### Part 1 **Financial Services**

#### **Article 19.** *Continuity of contracts*

1. Contracts for the provision of banking, securities, insurance, or other financial services in which an entity provides its services in Spain and is domiciled in the United Kingdom or in Gibraltar, and is authorized or registered by the competent authority of the United Kingdom or of Gibraltar, when such contracts have been entered into prior to the date of effective withdrawal of the United Kingdom from the European Union, shall remain in force after such withdrawal and, as a result, the obligations of all parties stipulated therein shall remain in effect.

2. From the date of effective withdrawal of the United Kingdom from the European Union, the aforesaid entities shall be subject to the regulatory system established in the sectoral legislation for entities of third States, without prejudice to the continuing validity of the contracts subscribed previously, as stipulated in section 1 of this Article. New authorization must be obtained for any renewal of such contracts and/or to introduce changes that involve the provision of new services in Spain or that affect any of the parties' essential obligations. Authorization must also be obtained in those cases in which the contract management-related activities require authorization, as well as to formalize new contracts. Activities arising from the management of such contracts that do not coincide with any of the cases indicated above shall not require new authorization.

3. Notwithstanding the provisions of section 2 of this Article, any authorization or registration initially granted by the competent British authority to the entities described in section 1 above shall provisionally maintain its validity for a period of nine months after the withdrawal of the United Kingdom from the European Union, as regards the management of contracts subscribed prior to the withdrawal which may require authorization, in order to:

a) Accomplish the orderly termination of the contracts or their assignment to a duly authorized entity in accordance with the corresponding contractual clauses.

b) Request authorization in Spain under any of the regimes established in the prevailing legislation, including the creation of a subsidiary. In this case, the provisional validity shall be effective from the date on which the entity requests authorization, or from the entry into force of this Royal Decree-Law if the

application was made earlier. The provisional validity shall expire if the application is rejected under the applicable regime.

4. In the cases provided for in section 3 of this Article, the financial institutions concerned shall remain subject to the legal regime applicable to them prior to the withdrawal of the United Kingdom from the European Union. The Bank of Spain, the National Securities Market Commission, and the Directorate-General for Insurance and Pension Funds, each within their scope of authority, shall have the corresponding supervisory powers and, in particular, may require said financial institutions to provide any documentation or information or to perform as many actions as may be deemed necessary. If this obligation is not met satisfactorily within the period granted for said purpose, the supervisory authorities may revoke the applicability, in relation to the entity in question, of the transitional regime provided for in section 3 of this Article. In such a case, the entity shall be notified that it is conducting an unauthorized activity in this area, and is subject to the corresponding sanctions established in the Spanish legislation applicable to the unauthorized exercise of reserved activities.

5. The Bank of Spain, the National Securities Market Commission, and the Directorate-General for Insurance and Pension Funds shall adopt, within their respective scope of authority, any necessary measures to guarantee legal certainty and to safeguard the interests of the users of financial services who might be affected by the departure of the United Kingdom from the European Union.

## Part 2 Customs

### **Article 20.** *Decisions of customs authorities*

From the date of publication of this Royal Decree-Law, the Spanish customs authorities shall process the requests for decisions referred to in Article 22 of Regulation (EU) No. 952/2013 of the European Parliament and of the Council, of 9 October 2013, laying down the Union Customs Code, submitted by operators established in the United Kingdom or by operators established in Spain who trade in goods with the United Kingdom, anticipating the consideration of the United Kingdom as a third State. Such decisions shall not take effect until the effective withdrawal of the United Kingdom.

## Part 3 Public Procurement

### **Article 21.** *Legal regime applicable to public procurement procedures*

1. With respect to economic operators from the UK or from Gibraltar which participate in tenders subject to Act 9/2017, of 8 November, on Public Sector Contracts, by which the Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU, of 26 February, are transposed into



Spanish law, to Act 31/2007, of 30 October, on procurement procedures in the water, energy, transport and postal services sectors, and to Act 24/2011, of 1 August, on public sector contracts in the fields of defence and security, the contracting procedure for which was initiated before the withdrawal of the United Kingdom from the European Union, the rules established in said legislation, and in the corresponding implementing regulations for companies belonging to the Member States of the European Union, shall continue to apply.

For these purposes, the contracting procedure shall be deemed to have been initiated if the corresponding call for tenders has been published. In the case of negotiated procedures without prior publication, the initiation date of the procedure shall be determined by taking into account the approval date of the tender specifications.

2. The application of the regime established in this Article shall be subject to the competent British authorities granting reciprocal treatment to Spanish economic operators, under the terms set forth in Article 2.1.

#### Part 4 **Authorizations and Licences**

##### **Article 22.** *Driving licences*

1. Valid and unexpired driving licences issued by the British authorities shall entitle their holders to drive in Spain for a period of nine months from the date of the withdrawal of the United Kingdom from the European Union.

During this period, persons who meet the requirements set out in Additional Provision Two of the General Regulation on Drivers, approved by Royal Decree 818/2009, of 8 May, may exchange their driving licences—provided that the current verification system for driving licences is maintained—under the conditions stipulated for licences issued by Member States of the European Union, pursuant to prevailing road traffic legislation.

2. Once the aforesaid period has elapsed, the system with respect to driving licences issued by the British authorities shall be that established with respect to licences issued in third countries, under the terms stipulated in prevailing road traffic legislation.

##### **Article 23.** *Import and export of defence and dual-use materials with the United Kingdom*

Authorizations in force, granted pursuant to Article 2 of the Regulation on the Control of Foreign Trade of Defence Material, of Other Material and of Dual-use Products and Technologies, approved by Royal Decree 679/2014, of 1 August, for which the country of destination or of origin is the United Kingdom, shall remain valid. Such authorizations may apply to any of the categories listed in Article 20 of the aforementioned Regulation.

**Article 24.** *Authorizations for weapons, explosives, pyrotechnic articles, and ammunition*

1. Authorizations and prior consent for the transfer of weapons, explosives, pyrotechnic articles, and ammunition, issued prior to the date of withdrawal of the United Kingdom from the European Union, shall remain valid until the expiry date established in such authorizations or prior consent.
2. From the date of withdrawal of the United Kingdom from the European Union, new authorizations and prior consent for such transfers shall cease to be issued, and the general regime for the import, transit, and export of goods shall be applied.
3. The application of the provisions of this Article is subject to the adoption by the competent British authorities of reciprocal treatment, under the terms set forth in Article 2.1.
4. Any explosive or pyrotechnic article whose conformity assessment procedure involved the participation of a UK notified body may not be placed on the market as of the date of the United Kingdom's withdrawal from the European Union.

**CHAPTER V**  
**Transport**

Part 1  
**Road Transport**

**Article 25.** *Carriage of goods by road*

1. Motor vehicles, or vehicle combinations hitched to a motor vehicle, exclusively used for the carriage of goods by transport undertakings established in the United Kingdom, may undertake laden journeys in Spanish territory for carriage operations having their point of departure and point of arrival, respectively, in the territory of the United Kingdom and in the territory of the Kingdom of Spain, or vice versa.

Likewise, said vehicles may undertake unladen journeys in Spanish territory when such a journey is a consequence or a precedent of one of the carriage operations defined in the previous paragraph.

2. For the purposes set forth in this Article, transport undertakings established in the United Kingdom must have an authorization or licence permitting them to conduct carriage operations in the United Kingdom.

3. It shall not be necessary to have the UK licence mentioned in the preceding section of this Article to conduct the following carriage operations:

- a) Carriage of mail as a universal service.
- b) Carriage of vehicles which have suffered damage or breakdown.
- c) Carriage of goods in motor vehicles for which the permissible laden weight, including that of trailers, does not exceed 3.5 tonnes.
- d) Carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters.
- e) Carriage of goods provided all of the following conditions are fulfilled:
  - i) The goods carried are the property of the undertaking or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;
  - ii) The purpose of the journey is to carry the goods to or from the undertaking or to move them, either inside or outside the undertaking, for its own requirements;
  - iii) Motor vehicles used for such carriage are driven by personnel employed by, or put at the disposal of, the undertaking under a contractual obligation;
  - iv) The vehicles used are owned by the undertaking, have been bought by it on deferred terms, or have been hired; and
  - v) Such carriage is no more than ancillary to the overall activities of the undertaking.

**Article 26.** *Carriage of passengers by bus*

1. Buses used exclusively for the carriage of passengers by transport undertakings established in the United Kingdom may undertake laden journeys in Spanish territory, as part of international passenger carriage operations, only when permitted to do so by international treaties to which both the United Kingdom and the Kingdom of Spain or the European Union are party, or when this circumstance is provided for in the rules of international organizations of which both the United Kingdom and the Kingdom of Spain or the European Union are members.

This carriage of passengers shall be performed under the terms and conditions established in the aforesaid treaties or rules.

2. Notwithstanding the provisions in section 1 of this Article, currently authorized regular passenger carriage services between the territory of the United Kingdom and the territory of Spain may continue to be provided until the expiry date of the relevant authorizations, under terms and conditions identical to those applicable on the entry into force of this Royal Decree-Law.

Said authorizations for regular passenger carriage services could, where applicable, be extended or amended to adapt frequencies, fares, or timetables, pursuant to the same regime applicable at the date on which they were granted.

**Article 27.** *Conditions applicable to the carriage of goods and passengers by road*

1. In the course of the carriage operations set forth in Articles 25 and 26, undertakings established in the United Kingdom must comply with the rules applicable in Spain with regard to drivers' working hours, driving times and rest periods; installation and use of tachographs and speed limiting devices; driver training; maximum authorized weights and dimensions for road transport vehicles; compulsory use of safety belts and child restraint systems in vehicles; transport of workers; and the rights of bus and coach passengers. In the event of non-compliance, the corresponding measures shall be applied.

2. The measures set forth in this Part 1 of Chapter V shall be interpreted pursuant to bilateral or multilateral instruments, or regulations established under European law, which are formalized or approved for this purpose.

3. Application of the regime set forth in this same Part 1 shall be conditional on the granting, by the competent British authorities, of reciprocal treatment to transport undertakings established in Spain, under the terms set forth in Article 2.1. Application thereof shall be maintained until 31 December 2019, without prejudice to the provisions of Article 2.2.

Part 2  
**Airport Services**

**Article 28.** *Charges for public services related to the departure of passengers whose destination is an airport in the United Kingdom*

Until 28 February 2020, passengers whose destination is an airport in the United Kingdom shall be considered to be travelling to an airport in the European Economic Area, for the purpose of establishing charges for public services related to passenger departure and catering services, and their corresponding updates, pursuant to Articles 78 and 89.1.5 of Act 21/2003, of 7 July, on Air Safety.

**Additional Provision One.** *Authorization for additional personnel for ICEX España Exportación e Inversiones, E.P.E., M.P.*

ICEX España Exportación e Inversiones, E.P.E., M.P. (ICEX Spain Trade and Investment), with the approval of the Ministry of the Treasury and of the Ministry of Territorial Policy and of the Civil Service, via the State Secretariat for Budgeting and Expenditure, and the State Secretariat for the Civil Service, shall be authorized to recruit eight additional contractual staff members, within the technical professional group, in addition to those corresponding to their staff turnover rate.

**Additional Provision Two.** *Authorization for additional personnel for the Port Authorities*

The Port Authorities, with the approval of the Ministry of the Treasury and of the Ministry of Territorial Policy and of the Civil Service, via the State Secretariat for Budgeting and Expenditure, and the State Secretariat for the Civil Service, shall be authorized to recruit 50 additional contractual staff members, in addition to those corresponding to their staff turnover rate.

**Additional Provision Three.** *Applicability to Gibraltar of the contingency measures relating to transportation*

As regards the carriage of goods and passengers from or to Gibraltar by bus, the Government may issue a Decision to apply the following legal regime:

1. Motor vehicles, or vehicle combinations hitched to a motor vehicle, exclusively used for the carriage of goods by transport undertakings established in Gibraltar, may undertake laden journeys in Spanish territory either for operations having their point of departure and point of arrival, respectively, in the territory of Gibraltar and Spanish territory, or vice versa.

Likewise, said vehicles may undertake unladen journeys in Spanish territory when such a journey is a consequence or a precedent of one of the carriage operations defined in the previous paragraph.

2. Vehicles seating more than nine people, including the driver, exclusively used for the carriage of passengers by transport undertakings established in Gibraltar, may undertake laden journeys in Spanish territory, either for operations having their point of departure and point of arrival, respectively, in the territory of Gibraltar and Spanish territory, or vice versa.

Likewise, said vehicles may undertake unladen journeys in Spanish territory when such a journey is a consequence or a precedent of one of the carriage operations defined in the previous paragraph.

3. For the purposes addressed in the preceding two sections of this Additional Provision Three, transport undertakings established in Gibraltar must have an authorization or licence permitting them to conduct carriage operations in that territory.

4. It shall not be necessary to have the licence mentioned in the previous section of this Additional Provision Three to conduct the following carriage operations:

- a) Carriage of mail as a universal service.
- b) Carriage of vehicles which have suffered damage or breakdown.
- c) Carriage of goods in motor vehicles for which the permissible laden weight, including that of trailers, does not exceed 3.5 tonnes.

d) Carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters.

e) Carriage of goods provided all of the following conditions are fulfilled:

- i. The goods carried are the property of the undertaking or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;
- ii. The purpose of the journey is to carry the goods to or from the undertaking or to move them, either inside or outside the undertaking, for its own requirements;
- iii. Motor vehicles used for such carriage are driven by personnel employed by, or put at the disposal of, the undertaking under a contractual obligation;
- iv. The vehicles used are owned by the undertaking, have been bought by it on deferred terms or have been hired;
- v. Such carriage is no more than ancillary to the overall activities of the undertaking.

5. In the course of the carriage operations regulated in the preceding sections of this Additional Provision Three, those transport undertakings included in their scope of application shall comply with the rules applicable in Spain with regard to drivers' working hours, driving times and rest periods; installation and use of tachographs and speed limiting devices; driver training; maximum authorized weights and dimensions for road transport vehicles; compulsory use of safety belts and child restraint systems in vehicles; transport of workers; and the rights of bus and coach passengers. In the event of non-compliance, the corresponding measures shall be applied.

6. Application of the regime set forth in the preceding sections of this Additional Provision Three shall be conditional on transport undertakings established in Spain receiving reciprocal treatment when their vehicles circulate in Gibraltar, in the terms set forth in Article 2.1 of this Royal Decree-Law, and shall be maintained until 31 December 2019, without prejudice to the provisions of Article 2.2 of this Royal Decree-Law.

**Additional Provision Four.** *Applications for the recognition or declaration of equivalence of degrees from UK universities, centres and institutions*

The Hague Stamp shall not be required on the documents needed to apply for the recognition or declaration of equivalence of university degrees from UK universities, centres and institutions, as long as the applications were submitted to the Spanish authorities prior to the effective withdrawal of the United

Kingdom under the procedure set forth in Royal Decree 967/2014, of 21 November, establishing the requirements and the procedure for the recognition and declaration of equivalence to official university degrees and official university academic levels and for the recognition of foreign higher education studies, and the procedure to determine the correspondence with the levels of the Spanish Qualifications Framework for Higher Education as regards the official titles of Architect, Engineer, Graduate with a five or six-year degree [*Licenciado*], Graduate with a three-year degree [*Arquitecto Técnico, Ingeniero Técnico, Diplomado*].

**Additional Provision Five.** *Public procurement for the implementation of the foreseen measures*

In those scenarios in which it is necessary to formalize public sector contracts to implement the measures contained in this Royal Decree-Law, or to adapt the situation to the consequences arising from the United Kingdom's withdrawal from the European Union, Articles 119 and 120 of Act 9/2017, 8 November, on Public Sector Contracts, transposing into Spanish law Directives 2014/23/EU and 2014/24/EU of the European Parliament and of the Council, of 26 February 2014, may apply, in the terms established in said provisions.

**Final Provision One.** *Amendment of regulatory provisions*

The regulatory provisions that are amended by this Royal Decree-Law may be subsequently amended by regulatory provisions.

**Final Provision Two.** *Empowering legislation*

The present Royal Decree-Law is issued in accordance with the following State powers:

The provisions set forth in Parts 1 and 2 of Chapter II are issued under Article 149.1.2 of the Spanish Constitution, which attributes exclusive powers to the State in matters of immigration, emigration, and foreign nationals.

The provisions set forth in Part 3 of Chapter II and in Additional Provision Four are issued under Articles 149.1.7, 149.1.18, and 149.1.30 of the Spanish Constitution, which attribute exclusive powers to the State in the regulation of, respectively: labour legislation; the statutes for civil servants; and the obtainment, issuance, and recognition of academic and professional qualifications.

The provisions set forth in Part 4 of Chapter II are issued under Article 149.1.7 of the Spanish Constitution, which attributes exclusive powers to the State with respect to labour legislation.

The provisions set forth in Part 5 of Chapter II, are issued under Article 149.1.17 of the Spanish Constitution, which attributes exclusive powers to the State with respect to the basic legislation and financial regime applied to the Social Security system.

The provisions set forth in Part 6 of Chapter II are issued under Article 149.1.16 of the Spanish Constitution, which attributes exclusive powers to the State in matters referring to the fundamentals and general coordination of the health system.

The provisions set forth in Part 7 of Chapter II are issued under Article 149.1.30 of the Spanish Constitution, which attributes exclusive powers to the State to regulate the basic rules for the development of Article 27 of the Constitution, in order to ensure that the public authorities fulfil their obligations in this respect.

The provisions set forth in Chapter III are issued under Articles 149.1.6 and 149.1.29 of the Spanish Constitution, which attributes exclusive powers to the State with respect to procedural law and public safety, respectively.

The provisions set forth in Part 1 of Chapter IV are issued under Articles 149.1.11 and 149.1.13 of the Spanish Constitution, which attribute exclusive powers to the State with regard to, respectively: fundamentals of the regulation of credit, banking, and insurance; and fundamentals and coordination of general planning of economic activity.

The provisions set forth in Part 2 of Chapter IV are issued under Article 149.1.10 of the Spanish Constitution, which attributes exclusive powers to the State with regard to customs and tariff regulations.

The provisions set forth in Part 3 of Chapter IV and in Additional Provision Five are issued under Article 149.1.18 of the Spanish Constitution, which attributes exclusive powers to the State regarding basic legislation on contracts and administrative concessions.

The provisions set forth in Article 22 are issued under Article 149.1.21 of the Spanish Constitution, which attributes exclusive powers to the State regarding motor vehicle traffic.

The provisions set forth in Article 23 are issued under Articles 149.1.4 and 149.1.10 of the Spanish Constitution, which attribute exclusive powers to the State regarding, respectively: defence and the Armed Forces, and foreign trade.

The provisions set forth in Article 24 are issued under Articles 149.1.26 and 149.1.29 of the Spanish Constitution, which attribute exclusive powers to the State to regulate, respectively: the production, trade, possession, and use of arms and explosives; and public safety.

The provisions set forth in Chapter V are issued under Articles 149.1.20 and 149.1.21 of the Spanish Constitution, which attribute exclusive powers to the



State to regulate, respectively: general-purpose airports, and land transport passing through the territory of more than one Autonomous Community.

Final Provision Three is issued under Articles 149.1.10 and 149.1.16, of the Spanish Constitution, which attribute exclusive powers to the State for the regulation of, respectively: foreign trade and external health measures.

**Final Provision Three.** *Sanitary or phytosanitary certificates required for export*

The Ministry of Agriculture, Fisheries and Food and the Ministry of Health, Consumer Affairs and Social Welfare, in the sphere of their respective powers, shall establish simplified procedures for requesting, processing, and issuing the sanitary or phytosanitary certificates required for the export of animals, products and by-products of animal origin, animal health products, vegetables, plant products, and other goods that require sanitary, veterinary or phytosanitary certification for export from Spain to the United Kingdom.

**Final Provision Four.** *Budget appropriations*

The measures set forth in this Royal Decree-Law shall be financed in accordance with General Budget Act 47/2003, of 26 November, subject to budgetary availability.

**Final Provision Five.** *Regulatory development*

1. The Government and its Ministers are authorized, within their scope of authority, to issue as many provisions as may be necessary for the development and implementation of this Royal Decree-Law.

2. For the purposes of Article 27 of Act 50/1997, of 27 November, on government, the processing of draft general provisions whose purpose is to implement this Royal Decree-Law shall be considered urgent. In no case does this urgency need to be declared in a Council of Ministers Decision, but any initiatives undertaken in this regard must be reported, at the next session of the Council of Ministers, by the proposing Ministry. In the Decisions acknowledging it has been informed thereof, the Council of Ministers shall establish, where applicable, the deadline by which the opinion of the Council of State must be issued, when such an opinion is mandatory. Any other mandatory opinions must be issued by the corresponding advisory bodies pursuant to the urgent procedure regulated for each one.

**Final Provision Six.** *Entry into force*

Without prejudice to the provisions of Article 20, this Royal Decree-Law shall enter into force on the date on which the Treaties of the European Union cease

to apply to the United Kingdom, in accordance with the provisions of Article 50.3 of the Treaty on European Union.

However, this Royal Decree-Law shall not enter into force if, prior to that date, a withdrawal agreement formalized between the European Union and the United Kingdom has come into force, in accordance with Article 50.2 of the Treaty on European Union.

Done at Madrid, 1 March 2019

FELIPE R.

The President of the Government,  
PEDRO SÁNCHEZ PÉREZ-CASTEJÓN