

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5323 GIBRALTAR Thursday 9th July 2026

LEGAL NOTICE NO. 165 OF 2026

TREATY ON GIBRALTAR AND THE EUROPEAN UNION ACT 2026

TGEU IMPLEMENTATION (BORDER CHECKS AND ALERTS) REGULATIONS 2026

In exercise of the powers conferred on the Government by sections 13 and 30(13) of the Treaty on Gibraltar and the European Union Act 2026, and all other enabling powers, and for the purposes of giving further effect to Part 2 of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, and for connected purposes, the Government has made these Regulations-

PART 1 PRELIMINARY

Title.

1. These Regulations may be cited as the TGEU Implementation (Border Checks and Alerts) Regulations 2026.

Commencement.

2. These Regulations come into operation on Implementation Date.

Interpretation.

3. In these Regulations-

“Article” means a numbered Article of the TGEU;

“the Act” means the Treaty on Gibraltar and the European Union Act 2026;

“the Administrative Arrangement” means the Administrative Arrangement between the United Kingdom, in respect of Gibraltar, and Spain on how Schengen border checks and border surveillance will be conducted signed on 25th June 2026;

“the TGEU” means the Treaty on Gibraltar and the European Union (as defined by section 5 of the Act);

“Schengen alert” means an alert in the databases and information systems operated by the Schengen authorities;

“Schengen authorities” means the authorities of the Member State referred to in Articles 33 and 34 of the TGEU that are competent for the purposes of those Articles;

“Gibraltar alert” means, except in regulation 12, an alert in the databases and information systems operated by the competent authorities of Gibraltar;

“Port” has the meaning given in section 2(1) of the Port Act;

“Schengen border checks” means the border checks carried out by Schengen authorities in accordance with Article 33 of the TGEU;

“Working Group” means the joint working group established in accordance with the Administrative Arrangement.

(2) Expressions used in these Regulations, and not defined in the Act, have the same meaning as in the TGEU.

Purpose.

4. The purpose of these Regulations is-

- (a) to give further effect to Articles 29, 32 and 33 (Border control by the competent authorities) of the TGEU in accordance with sections 30, 32 and 33 of the Act;
- (b) to give further effect to Article 34 (follow up actions to border checks – alerts in information systems) of the TGEU in accordance with section 34 of the Act;
- (c) to give further effect to Article 35 of the TGEU (follow up actions to border control – refusal of entry) in accordance with section 35 of the Act; and
- (d) to give effect to the Administrative Arrangement.

PART 2
BORDER CHECKS

Cumulative border control checks.

5.(1) A person entering or leaving Gibraltar at a border crossing point referred to in Article 29(1) shall be subject to—

- (a) border control checks carried out by an immigration officer in accordance with the Immigration, Asylum and Refugee Act; and
- (b) border control checks carried out by an officer of the Schengen authorities in accordance with the Schengen Borders Code and related Union law.

(2) A person who fails to comply with the requirement to undergo the checks referred to in subregulation (1) commits an offence and shall be liable on summary conviction to a fine at level 3 on the standard scale.

(3) Permission to enter Gibraltar is conditional upon the person complying with both checks and satisfying the applicable conditions for entry.

(4) This regulation is subject to the provisions of-

- (a) Article 43 as given effect by section 43 of the Act; and
- (b) the exemptions provided for in Article 38, as given effect by section 38 of the Act, and the conditions and compliance specified in that Article.

Schengen Border Checks at the Airport.

6. (1) Schengen border entry and exit first-line checks at Gibraltar airport shall take place either-

- (a) at the Schengen immigration booths; or
- (b) at a Schengen e-gate,

in accordance with subregulation (2).

(2) The checks will be carried out-

- (a) at a Schengen e-gate, in the case of persons covered by Article 29(4) who have attained the minimum age for the use of e-gates, and third-country nationals registered in the EU Entry/Exit System;
- (b) at the Schengen immigration booths, in the case of all other passengers who are not eligible for, or unable to undergo, automated border control.

(3) Officers of the Schengen authorities may be present at Gibraltar Airport outside the Second Line Checks Area in two ways-

- (a) within the Schengen immigration booths;
- (b) outside the Schengen immigration booths, when accompanied by a police officer, for the purposes of supervising the Schengen e-gates and, where necessary, escorting passengers from the first line Schengen border check (either the e-gate or Schengen immigration booths) to the Second Line Checks Area.

(4) An officer of the Schengen authorities who is-

- (a) in the Schengen immigration booths, may be in uniform;

- (b) outside of the Second Line Checks Area or the Schengen immigration booths must be in civilian clothes and be suitably identified.

Schengen border checks at the Port: entry and exit.

7.(1) Where the conditions in Article 29(3) are met, passengers and crew members arriving at the Port who are required to undergo Schengen border checks on entry, shall be transported to the Gibraltar airport by immigration officers, accompanied by officers of the Schengen authorities, to undergo these checks.

(2) Passengers and crew members departing from the Port who are required to undergo Schengen border checks on exit must present themselves at the Gibraltar airport and, once they have completed the checks, will be transported to the Port by immigration officers, accompanied by officers of the Schengen authorities.

(3) A person who, without reasonable excuse-

- (a) refuses to be transported to the airport, in accordance with subregulation (1);
- (b) fails to present themselves at the airport, in accordance with subregulation (2);
- (c) otherwise fails to comply with a lawful requirement of an immigration officer to ensure compliance with subregulation (1) or (2),

commits an offence.

(4) A person who commits an offence under subregulation (3) shall be liable on summary conviction to imprisonment for three months, or to a fine at level 3, or both.

**PART 3
ALERTS**

Follow Up Actions

Application: follow up actions to border checks.

8.(1) Regulations 9 to 14 do not apply to persons resident in Gibraltar.

(2) This Part shall not apply to a person to whom the exemptions in Article 38 apply, subject to the conditions and compliance with the formalities set out in that Article.

Process for arrest in the course of border checks

Procedural safeguards.

9.(1) This regulation applies where a person is arrested or detained in accordance with Article 34 of the TGEU and these Regulations.

(2) By way of providing procedural safeguards in accordance with Article 34(10), the person arrested or detained is entitled to:

- (a) the provision of adequate information relating to the person's situation and intended follow-up action;
- (b) the provision of facilities for interpretation and translation;
- (c) the assistance of a lawyer;
- (d) the provision of conditions reasonably suited to the needs of the person such as access to food, water and sanitation and medical assistance; and
- (e) the provision of adequate time for the person to make a decision.

(3) The Government may issue a code of practice on the implementation of the procedural safeguards and generally to give effect to the provisions of Article 34(10) and these Regulations, and any person exercising powers in accordance with Article 34 and these Regulations must have regard to such code of practice.

Border entry checks: arrests

10.(1) This regulation applies where the arrest of a person is required in accordance with the provisions of Article 34(5) of the TGEU in the course of border entry checks.

(2) Where there is a Gibraltar alert only for arrest (whether or not there is also a Schengen alert other than for arrest or another Gibraltar alert other than for arrest) and the person has objected to arrest or detention and therefore chosen to be refused entry, the person must—

- (a) be refused entry, and
- (b) either—
 - (i) be returned to their point of origin, or
 - (ii) exit to Spain,

in accordance with the person's choice.

(3) Where there is a Schengen alert only for arrest (whether or not there is also a Gibraltar alert other than for arrest or another Schengen alert other than for arrest) and the person has objected to arrest or detention and therefore chosen to be refused entry, the person must—

- (a) be refused entry, and
- (b) either-

- (i) be returned to their point of origin, or
- (ii) exit to Spain,

in accordance with the person's choice.

(4) Where subregulation (3) applies and the person has not objected to arrest or detention, the person will be removed to Spain.

(5) The person must be detained and held in a secure facility in the Second Line Checks Area, until a decision or choice is made by the person.

(6) Where subregulation (2)(b)(ii) or (3)(b)(ii) applies the person shall be escorted by a police officer, and shall be deemed to be in his custody, until he exits to Spain.

Border exit checks: arrests

11.(1) This regulation applies where the arrest of a person is required in accordance with the provisions of Article 34(5) of the TGEU in the course of border exit checks.

(2) Where there is Gibraltar alert only for arrest (whether or not there is also a Schengen alert other than for arrest or another Gibraltar alert other than for arrest) and the person has objected to arrest or detention and therefore chosen to be required to exit, the person must exit either—

- (a) to Spain, or
- (b) to their intended destination,

in accordance with the person's choice.

(3) Where there is a Schengen alert only for arrest (whether or not there is also a Gibraltar alert other for arrest or another Schengen alert other than for arrest) and the person has objected to arrest or detention and therefore chosen to be required to exit, the person must exit either—

- (a) to Spain; or
- (b) to their intended destination,

in accordance with the person's choice.

(4) Where subregulation (3) applies and the person has not objected to arrest or detention, the person will be removed to Spain.

(5) The person must be detained and held in a secure facility in the Second Line Checks Area, until a decision or choice is made by the person.

(6) Where subregulation (2)(a) or (3)(a) applies the person shall be escorted by a police officer, and shall be deemed to be in his custody, until he exits to Spain.

Border entry or exit checks: competing Schengen and Gibraltar alerts for arrest.

12.(1) This regulation applies where the arrest of a person is required in accordance with the provisions of Article 34 of the TGEU in the course of border entry checks or border exit checks and there is both-

- (a) a Schengen alert for arrest; and
- (b) another alert (“the Gibraltar alert”) which is either—
 - (i) an alert for extradition or arrest in the databases operated by the competent authorities of Gibraltar related to an international obligation of the United Kingdom (including, but not limited to, warrants under the International Criminal Courts or treaty-based extradition requests); or
 - (ii) any other alert for arrest in the databases operated by the competent authorities of Gibraltar.

(2) The Schengen alert shall take precedence and the person shall be removed to Spain; but this provision (the “default removal presumption”) is subject to any application-

- (a) made by the Government under subregulation (3) for rebuttal of that presumption by reference to an international obligation;
- (b) made by the Government under subregulation (6), following a human rights issue raised by the person; or
- (c) made by the person under subregulation (6).

(3) Where subregulation (1)(b)(i) applies, if the Government considers that the default removal presumption may fall to be rebutted by the circumstances of the case (including the relative seriousness of the offences and place of the offences, the respective dates of the requests, whether they have been issued for the purposes of prosecution or for the execution of a custodial sentence or detention order, and the legal obligations of Spain and the United Kingdom deriving from International or Union law) the Government must-

- (a) request an administrative stay of removal of the person to Spain; and
- (b) make an application to the Supreme Court to determine whether the Schengen alert or the Gibraltar alert should take precedence.

(4) For the avoidance of doubt, the Government shall not make an application under subregulation (3) where the sequencing provisions of the relevant international instrument provide for the Schengen alert to take precedence.

(5) If following the provision of the safeguards in regulation 9, the person raises a human rights concern about their arrest, detention or removal to Spain the Government must request an administrative stay of removal of the person to Spain.

(6) The person, or the Government, may, by application to the Supreme Court, challenge the arrest, detention or removal to Spain on the grounds that such arrest, detention or removal-

(a) is incompatible with Gibraltar's obligations under the European Convention on Human Rights; or

(b) constitutes a contravention of any provision of Chapter I of the Constitution.

Competing alerts (entry or exit checks): resolution process

13.(1) This regulation applies where an application has been made, by or in respect of a person whose arrest is required, under regulation 12.

(2) The person must not be removed to Spain until the determination of the application.

(3) Where an application is made to the Supreme Court, the Court-

(a) must hear the application within 24 hours or as soon as practicable;

(b) must make a preliminary determination within 48 hours of the hearing of the application, or as soon as practicable, as to whether the application has a realistic prospect of success.

(4) If the Court makes a preliminary determination that the application does not have a realistic prospect of success, the Court shall dismiss the application.

(5) If the Court makes a preliminary determination that the application does have a realistic prospect of success, it will set a date for a hearing.

(6) Upon hearing the application, the Supreme Court may-

(a) make an order that the person shall not be removed to Spain;

(b) dismiss the application;

(c) make any other order or give such directions as it thinks fit.

(7) For the purposes of an application or hearing under this regulation, the Court may sit remotely or conduct the hearing within the Second Line Checks Area.

(8) Where the Supreme Court-

(a) dismisses the application under subregulation (4) or (6)(b), the person must be removed to Spain; or

- (b) makes an order or determination under subregulation (6)(a) that there are legitimate human rights concerns, the person must be refused entry and returned to their point of origin.

(9) The removal of the person to Spain or return to the point of origin in accordance with subregulation (8) is subject to-

- (a) any right to remain in Gibraltar;
- (b) any other application to the Court; or
- (c) other order or direction given by the Court.

(10) For the duration of this process the person must be detained and held in a secure facility in the Second Line Checks Area but-

- (a) not for longer than is practicable in the circumstances; and
- (b) in any event not for a period longer than 72 hours.

(11) If it is not possible for the person to remain in the Second Line Checks Area, including because of the length of time the process will take or the specific needs of the person, they must be transferred to Gibraltar custody.

(12) Any administrative stay of removal or other action imposed pending an application to the Supreme Court –

- (a) lapses automatically (subject to any order of the Court to the contrary) on the making of an order or determination by the Court; and
- (b) does not continue or revive where an appeal is brought from the decision of the Supreme Court under this regulation (subject to any order of the Supreme Court or the Court of Appeal to the contrary).

Human rights.

14.(1) If following the provision of the safeguards in regulation 9, and except where regulations 12 and 13 apply, the person raises a human rights concern about their arrest, detention or removal to Spain the Government must request an administrative stay of removal of the person to Spain.

(2) The person, or the Government, may by application to the Supreme Court challenge the arrest, detention or removal on the grounds that such arrest, detention or removal-

- (a) is incompatible with Gibraltar's obligations under the European Convention on Human Rights;

- (b) contravenes any provision of Chapter I of the Constitution.
- (3) Where an application is made to the Supreme Court, the Court-
 - (a) must hear the application within 24 hours, or as soon as practicable;
 - (b) must make a preliminary determination within 48 hours of the hearing of the application, or as soon as practicable, as to whether the application has a realistic prospect of success.
- (4) If the Court makes a preliminary determination that the application does not have a realistic prospect of success, the court shall dismiss the application and make any order or give such directions as it thinks fit.
- (5) If the Court makes a preliminary determination that the application does have a realistic prospect of success, it will set a date for a hearing.
- (6) Upon hearing the application, the Supreme Court may make any order or give such directions as it thinks fit.
- (7) For the purposes of an application or hearing under this regulation, the Court may sit remotely or conduct the hearing within the Second Line Checks Area.
- (8) For the duration of this process the person must be detained and held in a secure facility in the Second Line Checks Area but-
 - (a) not for longer than is practicable in the circumstances; and
 - (b) in any event not for a period longer than 72 hours.
- (9) If it is not possible for the person to remain in the Second Line Checks Area either because of the length of time the process will take or the specific needs of the person, they must be transferred to Gibraltar custody.

Gibraltar residents.

15.(1) This regulation applies where the arrest of a person is required in accordance with the provisions of Article 34(5) or (6) of the TGEU in respect of a Schengen alert for arrest in the course of border entry or border exit checks and the individual is a person resident in Gibraltar.

(2) In accordance with Article 34(9) of the TGEU and section 34 of the Act, the action required by the Schengen alert may only be carried out by the Royal Gibraltar Police.

(3) The Royal Gibraltar Police shall upon request of the Schengen authorities and following receipt of such information as is necessary to enable lawful execution of the coercive action, carry out the requested action with a view to enabling the Schengen authorities to take follow-up action to be carried out on the basis of alerts existing in the databases and information systems operated by them.

(4) The Commissioner of Police shall notify the Schengen authorities of the coercive action carried out with a view to fast extradition.

PART 4 DETENTION AND REMOVAL

Detention and Search.

16.(1) An immigration officer or a police officer may search a person (“P”) who is detained under these Regulations-

- (a) for anything which the person might use-
 - (i) to cause physical injury to P or others;
 - (ii) to assist P’s escape from lawful custody;
- (b) for reasons of the security of the facility or the safety of P or other persons.

(2) The power to search P-

- (a) includes power to remove an item of clothing which-
 - (i) is being worn wholly or partly on the trunk; and
 - (ii) is being so worn either next to the skin or next to an article of underwear;
- (b) includes power to open P’s mouth.

(3) The power to search P may be exercised only to the extent reasonably required for the purpose of discovering anything which P might use as mentioned in subregulation (1).

(4) An intimate search may not be conducted under this regulation.

(5) An immigration officer or a police officer may seize or retain anything found on a search of P if the officer or constable has reasonable grounds to believe P might use it as mentioned in subregulation (1).

Detention and removal of persons under the TGEU.

17.(1) A person who is refused entry in accordance with-

- (a) Article 33(4)(a)(ii); or
- (b) Article 35(2) or (3),

must be held in a secure facility in the Second Line Checks Area until they are placed in a vessel or an aircraft about to leave Gibraltar, in accordance with the obligations of carriers referred to in Article 36 of the TGEU.

(2) Subject to the provisions referred to in subregulation (1), the person shall be escorted to the carrier in accordance with the following procedure-

- (a) the escort shall be conducted jointly by police officers and officers of the Schengen Authorities;
- (b) the escort will take place through a secure corridor established for this purpose;
- (c) the escort must take place in accordance with such operational cooperation as may be established between the relevant law enforcement authorities referred to in paragraph 1 of the Administrative Arrangement.

Lawful custody.

18.(1) If a person is transferred to Gibraltar custody under regulation 13(11) or 14(9) he must be brought as soon as practicable before the Supreme Court.

(2) A person taken into custody under regulation 13(11) or 14(9)-

- (a) shall be treated for all purposes as being in lawful custody; and
- (b) may be taken to a police station or such other place as may be appropriate in the circumstances.

(3) A person shall be deemed to be in legal custody at any time when he is detained under these Regulations.

(4) Where the person is brought before the Supreme Court under subregulation (1), the Court may remand the person in custody or, subject to subregulation (5), on bail.

(5) The Court may grant bail to the person only if the court considers that there are exceptional circumstances which justify it.

(6) If the Court remands a person in custody under this regulation, the person must be detained in such manner as the court may direct until he is either removed to Spain or refused entry.

(7) If a person in custody escapes from custody, he may be retaken in Gibraltar in the same way as he could have been if he had been in custody following his arrest or apprehension under a warrant for his arrest.

(8) Where a person is required to be removed to Spain in accordance with regulation 13(8)(a) or in accordance with an order of, or directions by, the court under regulation 14, the person must be treated as continuing in legal custody until he reaches Spain.

(9) Where subregulation 13(11) or 14(9) applies, the Government must—

- (a) provide the Spanish authorities with frequent updates of the progress of the case, and
- (b) cooperate with the Schengen authorities.

Part 5

Border Surveillance

Border surveillance.

19.(1) For the purposes of the co-operation on border surveillance in accordance with Article 33 between Gibraltar and Spain, the competent authorities of Gibraltar and the Schengen authorities shall conduct joint maritime patrols in jointly crewed law enforcement vessels at the borders of both Gibraltar and the surrounding area of Spain.

(2) If it is necessary to arrest or detain an individual during the course of border surveillance, this shall be done by the competent authority of the territory where the person has been apprehended and in accordance with the laws of that territory.

(3) Where the competent authorities of Gibraltar or the Schengen authorities intend to carry out border surveillance, they shall inform the Working Group in advance, in accordance with the Administrative Arrangement, including via the encrypted radio frequency of their route, duration, objectives and any other matter the Working Group considers relevant before commencing the activities.

(4) The competent authorities of Gibraltar and the Schengen authorities engaged in border surveillance will provide the Working Group with continuous updates on location and activity via the encrypted radio frequency.

(5) Where detailed communication and coordinated action is necessary between the competent authorities of Gibraltar and the Schengen Authorities or for operational security reasons, this will be done via the designated contact points or stationed personnel in the Second Line Checks Area.

Part 6

Miscellaneous

Immigration, Asylum and Refugee Act.

20.(1) An immigration officer may exercise any of the powers set out in section 5 of the Immigration, Asylum and Refugee Act for an implementation purpose.

(2) Section 66 of the Immigration, Asylum and Refugee Act applies to the exercise of any powers by an immigration officer for an implementation purpose as it applies to the exercise of any powers under that Act.

(3) A person detained or held in accordance with these regulations shall be deemed not to have entered Gibraltar as long as he is so detained or held.

Extradition Act 2018 etc.

21.(1) The provisions specified in subregulation (2) have effect subject to-

- (a) Article 34(5), (6) or (7); and
- (b) the Administrative Arrangement, as implemented by Part 3 of these Regulations,

where those provisions require that a person be –

- (i) refused entry, in the course of border entry checks;
- (ii) required to exit, in the course of exit checks; or
- (iii) removed to Spain.

(2) The provisions are-

- (a) Parts 1 to 7 of the Extradition Arrest Warrant Act 2004;
- (b) the Extradition Act 2018;
- (c) any other enactment giving effect to a convention or international agreement that apply to Gibraltar and concern in whole or in part extradition arrangements or arrest warrants.

(3) If any of the provisions referred to in subregulation (2) conflict with or are inconsistent with the provisions in subregulation (1)(a) or (b), the provisions in subregulation (1)(a) and (b) will take precedence.

Consequential modification of Criminal Procedure and Evidence Act 2011.

22. Section 48(10) of the Criminal Procedure and Evidence Act 2011 is deemed to be modified by inserting the words “or under the TGEU Implementation (Border Checks and Alerts) Regulations 2026” after “Immigration, Asylum and Refugee Act”.

Dated: 9th July 2026.

F R PICARDO,
Chief Minister,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations give further effect to Part 2 of the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland and the Administrative Arrangement between the United Kingdom, in respect of Gibraltar, and Spain on how Schengen Border Checks and Border Surveillance will be conducted.

