

Subsidiary Legislation made under ss.13 and 137(3).

**TGEU Implementation (Frontier Workers)
Regulations 2026**

LN.2026/319

Commencement **13.8.2026**

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In accordance with the powers under sections 13 and 137(3) of the Treaty on Gibraltar and the European Union Act 2026, for the purposes of implementing Title I and II of Part Four of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other Part, the Government has made the following Regulations-

Title.

1. These Regulations may be cited as the TGEU Implementation (Frontier Workers) Regulations 2026.

Commencement.

2. These Regulations come into operation on the date of publication.

Interpretation.

3. In these Regulations—

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

“article” means an article of the TGEU;

“certificate of status” means a document certifying a person’s employed or self-employed frontier worker status under Part Four of the TGEU.

“a relevant Member State” means the Kingdom of Spain.

Meaning of “frontier worker” and “family member”.

- 4.(1) For the purposes of these Regulations, union citizens legally residing in a relevant Member State, who pursue an economic activity as –

- (a) an employed person in Gibraltar and who returns at least once a week to a relevant Member State; or
- (b) a self-employed person both in Gibraltar, in accordance domestic law and in a relevant Member State and who returns at least once a week to a relevant Member State;

are employed and self-employed frontier workers respectively.

(2) For the purposes of these Regulations and irrespective of their nationality, family members to the persons referred to in subregulation (1), are-

- (a) the spouse;
- (b) the partner with whom the persons referred to in paragraph (a) have contracted a registered partnership in accordance with the conditions laid down in a relevant Member State, provided that domestic law treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in domestic law;
- (c) the direct descendants who are under the age of 21 or are dependents and those of the spouse or partner as defined in paragraph (b); and
- (d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in paragraph (b),

provided they legally reside in a relevant Member State.

Frontier Workers' Rights: general.

5. Union citizens legally residing in a relevant Member State shall have a right to-

- (a) take up and pursue an activity as an employed frontier worker in Gibraltar in accordance with domestic law applicable to United Kingdom nationals in Gibraltar;
- (b) enter, stay and leave in order to register with the employment services to allow these persons to find out about the employment opportunities corresponding to their professional qualifications and, if necessary, take appropriate steps to take up employment as employed frontier workers; this shall include the right to be assisted by the employment offices under the same conditions as United Kingdom nationals in Gibraltar;
- (c) the right to enter, stay and leave while employed as a frontier worker or pursuing an activity as a self-employed frontier worker.

Frontier Workers' Rights: equal treatment.

6.(1) Employed frontier workers shall enjoy the right to equal treatment with employed United Kingdom nationals legally residing in Gibraltar.

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- (2) The right to equal treatment referred to in subregulation (1) entails-
- (a) the right not to be discriminated against on grounds of nationality as regards employment, remuneration and other conditions of work and employment;
 - (b) the right to equal treatment in respect of conditions of employment and work, in particular as regards remuneration, dismissal and in case of unemployment, reinstatement or re-employment;
 - (c) social and tax advantages, except rights of access to housing;
 - (d) membership of trade unions and the exercise of rights attaching thereto, including the right to vote and to be eligible for the administration or management posts of a trade union, however, they may be excluded from taking part in the management of bodies governed by public law and from holding an office governed by public law;
 - (e) the same rights as regards access to training in vocational schools and retraining centres.
- (3) Self-employed frontier workers shall enjoy the rights set out in paragraphs (b) to (e) of subregulation (2).

Employment in the public service.

7. Union citizens legally residing in a relevant Member State may be refused the right to take up employment in the public service which involves direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of Gibraltar or of other public authorities.

Retained frontier worker status.

8.(1) A union citizen legally residing in a relevant Member State shall retain frontier worker status under these Regulations provided they are in one of the following circumstances-

- (a) they are temporarily unable to work as the result of an illness or accident;
- (b) they are in duly recorded involuntary unemployment after having been employed for more than one year and have registered as job-seekers with the Department of Employment;

- (c) they are in duly recorded involuntary unemployment after having completed a fixed-term employment contract of less than a year or after having become involuntarily unemployed during the first twelve months and have registered as a job-seeker with the Department of Employment;
- (d) they are in involuntary unemployment and have embarked on vocational training; or
- (e) they have voluntarily ceased working and have embarked on vocational training that is related to their previous employment.

(2) A person to whom subregulation (1)(c) applies may only retain frontier worker status for a maximum of six months.

Family members of frontier workers.

9.(1) Family members, as defined in regulation 4(2), of employed frontier workers or self-employed frontier workers, shall enjoy a derivative right to equal treatment in the access to social and tax advantages with family members of United Kingdom nationals legally residing in Gibraltar who are employed or self-employed in Gibraltar.

(2) The children of employed or self-employed frontier workers in Gibraltar, provided that such children are residing in Gibraltar, shall enjoy the right to equal treatment in the access to the general educational, apprenticeship and vocational training courses, with the children of employed United Kingdom nationals legally residing in Gibraltar.

Certificate of status.

10.(1) The Director of Employment shall issue a certificate of status to a frontier worker under this regulation.

(2) Subject to regulation 11, the Director of Employment shall issue a certificate of status to a frontier worker on receipt of a valid application under this regulation.

(3) An application for a certificate of status shall—

- (a) be made online, submitted electronically using the relevant pages of www.egov.gi;
- (b) be accompanied by—
 - (i) a valid identity document; and

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(ii) evidence the applicant is a frontier worker; and

(c) be complete.

(4) Subject to subregulation (5), an application under this regulation is invalid and shall be rejected if it is submitted otherwise than in accordance with the requirements in subregulation (3).

(5) Where the Director of Employment receives an application that does not comply with the requirements of subregulation (3)(b) or (3)(c), they shall not reject the application as invalid unless the applicant has been given the opportunity to remedy the deficiencies in the application and has failed to do so.

(6) A certificate of status-

(a) may be in electronic form;

(b) is proof of the holder's status as a frontier worker on the date of issue; and

(c) shall state the name of the frontier worker and the date of issue.

(7) A certificate of status issued under these Regulations is valid for one year from the date of issue.

Renewal and revocation of certificates of status.

11.(1) An application for renewal of a certificate of status shall comply with regulation 10.

(2) The Director of Employment may refuse to renew or may revoke a certificate of status at any time-

(a) where the certificate holder is subject to a restriction measure made under these regulations; or

(b) where the certificate holder ceases to be or never was a frontier worker.

Objectively justified measures.

12.(1) Measures derogating from equal treatment pursuant to regulation 6(2) and 6(3) are permissible only if they are objectively justified.

(2) In order to be justified-

- (a) they shall be appropriate for securing the attainment of a legitimate objective; and
- (b) shall not go beyond what is necessary to attain that objective.

Posted workers.

13.(1) Union citizens living in a relevant Member State who pursue an activity as employed persons for an employer which normally carries out its activities in a relevant Member State and who are posted for a limited period by that employer to Gibraltar to supply services that are both locally produced and consumed at the contiguous frontier zone on that employer's behalf, shall enjoy the right to-

- (a) enter, leave and stay in Gibraltar without hindrance necessary for the supply of said services; and
- (b) enjoy, on the basis of equality of treatment, the terms and conditions of employment which are laid down in Gibraltar and which are set out in domestic law or administrative provision and/or by collective agreements or arbitration awards which have been declared universally applicable or otherwise apply in accordance with subregulation (3).

(2) These terms and conditions of employment are listed in Schedule 1 and their application shall not prevent the application of terms and conditions of employment which are more favourable to posted workers.

(3) For the purpose of this regulation, "collective agreements or arbitration awards which have been declared universally applicable" means collective agreements or arbitration awards which must be observed by all undertakings in the geographical area and in the profession or industry concerned.

(4) In the absence of, or in addition to, a system for declaring collective agreements or arbitration awards to be of universal application within the meaning of subregulation (3), the following may be used as a basis-

- (a) collective agreements or arbitration awards which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned; and/or
- (b) collective agreements which have been concluded by the most representative employers' and labour organisations domestically and which are applied throughout Gibraltar.

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(5) For the purposes of subregulation (1), equality of treatment shall be deemed to exist where employers in Gibraltar in a similar position-

- (a) are subject to the same obligations as posting employers as regards the matters listed in Schedule 1; and
- (b) are required to fulfil such obligations with the same effects.

Restrictions on grounds of public policy, public security and public health.

14.(1) The competent authority may restrict the rights granted under these Regulations through restriction measures that are justified on the grounds of public policy, public security or public health.

(2) Restriction measures taken on the grounds of public policy or public security shall-

- (a) comply with the principle of proportionality; and
- (b) be based exclusively on the personal conduct of the person concerned which represents a genuine and present risk.

(3) For the purposes of subregulation (2), a restriction measure shall comply with the principle of proportionality where-

- (a) it is appropriate and capable of achieving the objective pursued;
- (b) it does not go beyond what is necessary, and where a choice exists between several appropriate restriction measures, the least restrictive measure is adopted; and
- (c) the disadvantages caused to the individual are not disproportionate to the aim pursued.

(4) Previous criminal convictions shall not in themselves constitute grounds for taking restriction measures referred to in subregulation (2).

(5) In the case of a restriction measure taken on grounds of public health-

- (a) a disease that does not have epidemic potential as defined by the relevant instruments of the World Health Organisation or is not a disease listed in the Schedule to the Notifiable Diseases Order 2017 does not constitute grounds for the restriction measure; and

- (b) in order to ascertain whether a person represents a danger to public health, section 5(1)(f) of the Immigration, Asylum and Refugee Act shall apply, save that-
 - (i) section 5(1)(f) shall not be applied as a matter of routine and may only be applied where there are serious grounds that it is necessary for the purposes of ascertaining whether the person is suffering from a disease referred to in paragraph (a);
 - (ii) the person shall not be charged a fee for the medical examination; and
 - (iii) the person shall not be required to submit to medical treatment.

(6) A restriction measure taken under this regulation shall be notified to the person in accordance with regulation 15.

Notification of restriction measure.

15.(1) This regulation shall apply in respect of any restriction measure which has the effect of restricting the rights granted under these Regulations.

(2) The person in respect of whom the competent authority's restriction measure has been taken shall be informed in writing of—

- (a) the restriction measure;
- (b) the full reasons for the restriction measure (unless this is contrary to the interests of the security of Gibraltar);
- (c) their right to appeal to the Supreme Court against the restriction measure;
- (d) the time limits for lodging an appeal to the Supreme Court; and
- (e) where applicable, the date by which they are required to leave Gibraltar.

(3) A notice under subsection (2) shall be—

- (a) written in such a way that the person concerned is able to understand its contents and the implications for the person;
- (b) accompanied with an application for leave to appeal form in the form set out in Schedule 2; and

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- (c) served on the person concerned by personal service.

Restriction measures restricting stay in Gibraltar.

16. A person who is the subject of a restriction measure that prohibits them from exercising the right to stay in Gibraltar for the purposes of exercising rights under these Regulations and who does not comply within the time notified to them under regulation 15(2) may, subject to regulation 17, be treated as an unauthorised person under section 59 of the Immigration, Asylum and Refugee Act.

Appeals.

17.(1) A person who is aggrieved by a restriction measure may appeal to the Supreme Court against that measure.

(2) An appeal under this regulation shall be brought as soon as reasonably practicable and in any event not later than 28 days from the date on which notice of the restriction measure was given in accordance with regulation 14(6).

(3) No appeal under this regulation shall be brought unless the leave of the Supreme Court has been obtained and, for the purpose of obtaining such leave, the form set out in Schedule 2 may be used.

(4) Leave shall not be refused where the appeal raises an arguable case as to the legality, factual basis or proportionality of the restriction measure.

(5) The appellant shall be entitled to appear and be represented at the hearing of an appeal or application for leave to appeal save—

- (a) if they are appealing the denial of entry into Gibraltar;
- (b) if he is a person who has been removed from or left Gibraltar and his appearance may cause serious troubles to public policy or public security.

(6) Subject to regulation (7), if a person in Gibraltar appeals against a restriction measure to refuse them admission to, remove them from or require them to leave Gibraltar, while the appeal or application for leave to appeal is pending—

- (a) they may not be refused admission or removed from Gibraltar pursuant to any removal order given under section 59 of the Immigration, Asylum and Refugee Act; and

- (b) he may not be placed in a vessel or aircraft under section 59(5) of the Immigration, Asylum and Refugee Act.

(7) Subregulation (6) shall not apply if–

- (a) the decision to refuse admission to or remove from Gibraltar has been taken on imperative grounds of public security; or
- (b) a restriction measure requiring them to leave was made subsequent to a decision by the Supreme Court to refuse an appeal or leave to appeal against the decision to remove, or requirement to leave.

(8) The Supreme Court determining an appeal of the nature referred to in subregulation (1) shall conduct an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed measure is based and the proportionality of the measure and may–

- (a) dismiss the appeal; or
- (b) quash the restriction measure and remit it to the competent authority with a direction to reconsider it.

(9) A decision of the Supreme Court under this regulation shall be final as to any question of fact, but an appeal shall lie to the Court of Appeal on any question of law.

(10) If by reason of any default on the part of the person who has instituted an appeal in accordance with this regulation, the appeal has not been determined by the Supreme Court within three months of the date of the notice of appeal or application by which the appeal was instituted–

- (a) the competent authority may apply to the Supreme Court, by a summons served on the person who has instituted the appeal in accordance with this regulation, to show cause why the appeal should not be dismissed for want of prosecution; and
- (b) upon the making of an application under paragraph (a) the Supreme Court may dismiss the appeal or make such other order as it considers just.

SCHEDULE 1

**TERMS AND CONDITIONS OF EMPLOYMENT AS REFERRED TO IN
REGULATION 13(2)**

1. Maximum work periods and minimum rest periods.
2. Minimum paid annual leave.
3. Remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes.
4. The conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings.
5. Health, safety and hygiene at work.
6. Protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people.
7. Equality of treatment between men and women and other provisions on non-discrimination.
8. The conditions of workers' accommodation where provided by the employer to workers away from their regular place of work.
9. Allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons.

Paragraph 9 shall apply exclusively to travel, board and lodging expenditure incurred by posted workers where they are required to travel to and from their regular place of work in the territory where they are posted, or where they are temporarily sent by their employer from that regular place of work to another place of work.

SCHEDULE 2

Regulation 17

Notice of Application for Leave to Appeal to the Supreme Court Appeal Against a Restriction Measure

Complete this form if you wish to appeal against a restriction measure restricting the rights granted under these Regulations.

You must appeal within 28 days from the date of service of the measure imposed on you. The Supreme Court must receive your appeal form within this time.

You have a right to appeal to the Supreme Court using this form if you—

- hold frontier worker status,
- are a family member of a person who holds frontier worker status.

About you	
Your full name	
Your address <i>You must inform the Supreme Court if you change your address</i>	
Your daytime telephone number	
Your nationality <i>If you have more than one nationality please give all nationalities.</i>	
If you are appealing as a family member of someone that holds frontier worker status, please give- • The name and nationality of that person, and • Their relationship to you.	

Do you have a lawyer?	Yes	No
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<i>If you have a lawyer, please give the information requested below.</i>	
Name of your lawyer	
Address of your lawyer	
Telephone number of your lawyer	

About the restriction measure
Please give full details of the measure you are appealing against.
Grounds of Appeal
In this section you must set out the grounds for your appeal and the reasons you consider the decision was wrong. <i>Please give as much detail as possible – Use additional paper if you need to.</i>

Late appeal and application for extension of time.
<i>Your appeal must be received within 28 days of service. If you know that your appeal is late you must apply for an extension of time to appeal.</i>
Why is your appeal late? (Please give your reasons and attach any evidence to this form).

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Declaration by appellant <i>If you are the appellant and are completing the form for yourself, you must complete this section.</i>	
I, the appellant, believe that the facts stated in this Notice are true.	
Appellant's signature	
Appellant's full name (in block capitals)	
Date of signature	

Declaration by lawyer <i>If you have a lawyer you must complete this section.</i>	
The facts stated in this Notice are true to the best of my knowledge and belief.	
Lawyer's signature	
Lawyer's name (in block capitals) and address	
Date of signature	

Please send or deliver this form to-

**The Supreme Court
227 Main Street
Gibraltar**