

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,957 of 11th October, 2012

B. 18/12

BILL

FOR

AN ACT to amend the Companies Act, the Trustees Act, and the Partnership Act to make provision for the keeping of proper books of account, the maintenance of records identifying settlors, trustees and beneficiaries of trusts and the abolition of share warrants to bearer.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Companies, Partnerships and Trusts (Miscellaneous Amendments) Act 2012 and comes into operation on the day appointed by the Government by notice in the Gazette and different days may be appointed for different purposes.

Amendment of Companies Act.

2.(1) The Companies Act is amended in accordance with the provisions of this section.

(2) In section 2 insert the following definition after the definition of “Minister”–

““proper books of account” means such books or accounts as are necessary to exhibit and explain the transactions and financial position of the trade or business of the company and includes books containing entries from day to day of all cash received and cash paid, statements of annual stocktaking, all goods sold and purchased showing sufficient detail to enable those goods, buyers and sellers to be identified and any contracts, invoices or other

underlying documentation significant to the trade or business of the company.”.

(3) In section 121 insert the following subsections after subsection (5)–

“(6) A company which has a share warrant in issue on the date of the coming into force of this subsection shall within a period of 9 months from such date enter the bearer of the share warrant in the company’s register of members.

(7) No rights attached to a share warrant may be exercised unless the bearer has been entered in the company’s register of members.

(8) No share warrants shall be issued after the coming into force of this subsection.

(9) A company commits an offence if it fails to comply with subsection (6) and is liable on summary conviction to a fine at level 5 on the standard scale.”.

(4) In subsection (1) of section 170 insert “for a period of 5 years” after “kept”.

(5) In subsection (1) of section 314 substitute “five years” for “two years”.

(6) Subsection (2) of section 314 is repealed.

Amendment of Trustees Act.

3. The Trustees Act is amended by inserting the following after section 60–

“Identity and ownership information.

61. A trustee shall record in writing information as to the identity of the settlors, trustees and beneficiaries of the trust and maintain such information for a period of 5 years.

Maintenance of accounting records.

62.(1) A trustee shall maintain proper books of account with respect to—

- (a) all sums of money received and expended by the trust and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the trust; and
- (c) the assets and liabilities of the trust,

for a period of 5 years.

(2) In this section “proper books of account” means such books or accounts as are necessary to exhibit and explain the transactions and financial position of the administration, trade or business of the trust and includes books containing entries from day to day of all cash received and cash paid, statements of annual stocktaking, all goods sold and purchased showing sufficient detail to enable those goods, buyers and sellers to be identified, and any contracts, invoices or other underlying documentation significant to the trade, business or administration of the trust.”.

Amendment to Partnership Act.

4. The Partnership Act is amended by inserting the following after section 29—

“Maintenance of accounting records.

29A.(1) Partners must maintain proper books of account with respect to—

- (a) all sums of money received and expended by the partnership and the matters in respect of which the receipt and expenditure takes place;

- (b) all sales and purchases of goods by the partnership;
and
- (c) the assets and liabilities of the partnership,

for a period of 5 years.

- (2) In this section “proper books of account” means such books or accounts as are necessary to exhibit and explain the transactions and financial position of the trade or business of the partnership and includes books containing entries from day to day of all cash received and cash paid, statements of annual stocktaking, all goods sold and purchased, showing sufficient detail to enable those goods, buyers and sellers to be identified, and any contracts, invoices or other underlying documentation significant to the trade or business of the partnership.”.

EXPLANATORY MEMORANDUM

This Bill amends various pieces of legislation to create an obligation on all companies, partnership and trusts to maintain complete records on their accounts and ownership. It restricts the issuance of share warrants to bearer and requires that existing share warrants are registered. It also requires that all trusts maintain information on relevant settlors, trustees and beneficiaries.

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