

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 4,057 of 6th February, 2014**

---

---

**B. 05/14**

**TAXATION (MUTUAL ADMINISTRATIVE ASSISTANCE) ACT  
2014**

**ARRANGEMENT OF CLAUSES**

Clause.

**PART I  
Preliminary**

1. Title and commencement.
2. Interpretation.
3. Scope of the Act.

**PART II  
Competent Authority**

4. Designation of the Competent Authority.
5. Duty of the Competent Authority.
6. Functions of the Competent Authority.

**PART III  
Exchange of Information**

7. Basis for exchange of information.
8. Exchange of information upon request.
9. Automatic exchange of information.
10. Spontaneous exchange of information.
11. Power to compel the production of information.
12. Power to compel witnesses or for production of evidence under Oath.
13. Search and Seizure.
14. Power to obtain production order.
15. Privilege.

**PART IV  
Tax Examinations**

16. Simultaneous tax examinations.
17. Tax examinations abroad.

**PART V  
Information**

18. Information to be provided in request for assistance.

**PART VI  
Response and limitation of assistance**

19. Response to request for assistance.
20. Protection of Persons and Limitations to the Convention obligations.
21. Time Limit.

**PART VII  
General**

22. Conflicting information.
23. Confidentiality.
24. Language.
25. Costs.
26. Proceedings.
27. Regulations.
28. Immunity.
29. Relationship with other legislation.

**SCHEDULE**

Particulars to be included in a notice to produce information

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 4,059 of 13th February, 2014**

---

---

**B. 05/14**

**BILL**

**FOR**

**AN ACT** to implement the Convention on Mutual Administrative Assistance in Tax Matters of 21 January 1988 as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters of 27 May 2010; and for connected purposes.

**ENACTED** by the Legislature of Gibraltar.

**PART I  
Preliminary**

**Title and commencement.**

1. This Act may be cited as the Taxation (Mutual Administrative Assistance) Act 2014 and comes into operation on 1 March 2014.

**Interpretation.**

2.(1) In this Act, unless the context otherwise requires—

“applicant State” and “requested State” mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;

“Competent Authority” means the authority designated under section 4;

“Commissioner of Income Tax” means the person appointed under section 2(1) of the Income Tax Act 2010;

“Convention” means the Convention on Mutual Administrative Assistance in Tax Matters of 21 January 1988 as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters of 27 May 2010;

“Council of Europe” means the Council of Europe established under the Statute of the Council of Europe of 5 April 1949;

“Government” means the Government of Gibraltar;

“interested person” means a person who is directly affected and includes his or its legal representative;

“Minister” means the Minister with responsibility for finance;

“national” means a Gibraltarian within the meaning of the Gibraltarian Status Act and, in this Act, shall include any legal person, partnership or association deriving its status as such from the laws in force in Gibraltar;

“OECD” means the Organisation for Economic Co-operation and Development established under the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

“Party” or “Parties” respectively mean a State Party or State Parties to the Convention, and where the context so admits, or requires shall include a territory;

“person” means a legal or natural person;

“relevant information” means information which is required by the Competent Authority for the purpose fulfilling a provision of this Act; and

“request for assistance” includes administrative assistance and refers to the exchange of information set out in sections 8 and 14 to 15 or the assistance in Part IV.

(2) Where the Convention is being applied in Gibraltar then unless the context requires otherwise, terms regarding the taxes covered by the Convention shall be construed in accordance with the law of Gibraltar.

**Scope of the Act.**

3. This Act shall apply only in relation to taxes on income or profits as defined in Article 2(1)(a)(i) of the Convention.

**PART II**  
**Competent Authority**

**Designation of the Competent Authority.**

4. The Commissioner of Income Tax is designated as the Competent Authority for the purposes of this Act.

**Duty of the Competent Authority.**

5.(1) The Competent Authority shall perform the functions assigned to it or the duties conferred upon it under this Act or any other enactment.

(2) Without prejudice to subsection (1) the Competent Authority shall undertake such other function or duty as the Government notifies to it in writing.

**Functions of the Competent Authority.**

6. Without prejudice to the generality of section 5, the principal function of the Competent Authority shall include—

- (a) exchange of information, including simultaneous tax examinations and participation in tax examinations abroad, as provided for under this Act, and for the purposes of compliance with the Convention;
- (b) liaising as necessary with an applicant State;
- (c) acting as Competent Authority for Gibraltar in any case where Gibraltar is the requesting State; and
- (d) performing such other functions as may be prescribed under this Act or any other enactment or law.

**PART III**  
**Exchange of information**

**Basis for exchange of information.**

7. The basis upon which information may be exchanged under the provisions of this Part shall be whether that information is foreseeably relevant for the administration or enforcement of any laws, whether in Gibraltar or in the requesting State, relating to taxes on income or profits.

**Exchange of information upon request.**

8.(1) The Competent Authority shall upon the request of the applicant State provide that State with information, falling under section 7, concerning particular persons or transactions.

(2) If the information available to the Competent Authority is insufficient to enable it to comply with a request for information, the Competent Authority shall have recourse to the provisions of sections 11 to 14 to obtain the relevant information in order to provide the applicant State with the information requested.

**Automatic exchange of information.**

9.(1) Where the Government agrees with one or more States to the automatic exchange of information referred to in section 3 in respect of particular categories of cases the Competent Authority shall automatically exchange that information.

(2) If the information available to the Competent Authority is insufficient to enable it to comply with subsection (1), the Competent Authority shall have recourse to the provisions of sections 11 to 14 to obtain the relevant information in order to provide the applicant State with the information requested.

**Spontaneous exchange of information.**

10.(1) The Competent Authority shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances—

- (a) the Competent Authority has grounds for supposing that there may be a loss of tax in the other Party;
- (b) a person liable to tax obtains a reduction in or an exemption from tax in Gibraltar which would give rise to an increase in tax or to liability to tax in the other Party;
- (c) business dealings between a person liable to tax in Gibraltar or in a Party and a person liable to tax in Gibraltar or another Party, as the case may be, are conducted through one or more countries in such a way that a saving in tax may result in Gibraltar, the other Party or in both Gibraltar and that other Party;
- (d) the Competent Authority has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises; or
- (e) information forwarded to the Competent Authority by the another Party has enabled information to be obtained which may be relevant in assessing liability to tax in the other Party.

(2) The Minister may by regulations provide for the procedures to be followed or such other matters as may be requested to give effect to the provisions in subsection (1).

**Power to compel the production of information.**

11.(1) Where the Competent Authority believes that a person is in possession of relevant information it shall issue and serve upon such person a notice requiring that person to produce to the Competent Authority the information the subject matter of the notice in the manner, at the time and in the place specified in the notice.

(2) A notice issued under subsection (1) shall include at least the particulars specified in the Schedule.

(3) Any person served with a notice pursuant to subsection (1) may, within 10 days from the date of service of the notice, make a written submission to the Competent Authority specifying any grounds which he wishes the Competent Authority to consider in making a final determination as to whether or not the request is in compliance with the provisions of this Act,

including any assertions that the information requested is subject to legal privilege and the reasons therefor.

(4) The Competent Authority shall consider any written submission made in accordance and compliance with subsection (3), but shall not be obliged to permit or consider any oral submission by or on behalf of any person who is the subject of a notice, and shall thereupon confirm, vary or withdraw the notice as the Competent Authority considers appropriate.

(5) A person upon whom a notice is issued under subsection (1) shall provide the information requested by the notice or any variation thereof and comply with all of its other requirements—

- (i) by the date specified in the notice; or
- (ii) if a written submission has been made under subsection (3), within 10 days of the receipt of the Competent Authority's written decision under subsection (4).

(6) Where the information requested is of a recurring nature, the date referred to in subregulation (5)(i) may include more than one date or a series of dates.

**Power to compel witnesses or for production of evidence under Oath.**

12.(1) This section applies in any case where, pursuant to a request, the Competent Authority requires any person to provide evidence by way of deposition or to produce information on oath.

(2)—

- (a) In any case to which subsection (1) applies, the Minister shall on the application of the Competent Authority appoint a person to be a Special Examiner to conduct the examination, take the testimony and receive the information on oath of any person;
- (b) both an application by the Competent Authority and any appointment under this subsection shall attach a notice issued in conformity with section 11.

(3) The Minister may designate the Stipendiary Magistrate as the Special Examiner under subsection (2) above.

(4) The Special Examiner may issue subpoenas, administer and take evidence under oath, and exercise any other power which the Supreme Court may exercise for the purpose of compelling testimony and the production of information.

(5) The Special Examiner appointed under subsection (2) shall, unless it be the Stipendiary Magistrate, be a barrister or solicitor of at least 5 years standing or a public officer of at least Higher Executive Officer grade.

(6) The testimony and information taken by the Special Examiner shall be provided by the Special Examiner to the Competent Authority who shall provide it to the requesting Party in accordance with this Act.

(7) For the purposes of subsection (6), testimony shall be provided to the Competent Authority in the form of written depositions of the witness and documents and records, if requested by the Competent Authority, in the form of authenticated copies.

(8) The following persons shall be permitted to ask questions of a witness before a Special Examiner, namely–

- (a) the Special Examiner;
- (b) the Competent Authority;
- (c) any person authorised to do so by the Competent Authority;
- (d) a lawyer representing the witness or the employer of the witness; or
- (e) any other person prescribed by regulations made under this Act.

(9) A person required to testify or to produce information under this section shall have the right to be represented by counsel when he does so.

#### **Search and Seizure.**

13.(1) This section applies to any case where the Magistrates' Court is satisfied on the application of the Competent Authority that–

- (a) a person who has been requested to provide testimony or information has failed to comply in whole or in part with the provisions of section 11 or 12; or
- (b) if notice is given to the person who has, or is believed to have, the required information in his possession or control, there is a reasonably foreseeable possibility that it might be tampered with, removed from Gibraltar, destroyed, or placed beyond the access or control of that person or the Competent Authority; or
- (c) the Government's ability to comply with a request in accordance with its obligations under this Act so requires.

(2) In any case to which subsection (1) applies, the Competent Authority may apply to the Magistrates' Court which may issue a warrant in writing authorising the Competent Authority and any person or persons authorised by the Competent Authority to enter premises, if necessary by force, at any time within 14 days from the time of issue of the warrant, and search them.

(3) In this section "premises" means any premises where the Competent Authority believes relevant information is to be found, or from which it can be accessed using electronic or other means.

(4) The persons so authorised by a warrant when entering or having entered the premises under the authority of a warrant under this section may—

- (a) take with them such other person or persons as appears to the Competent Authority to be necessary;
- (b) seize and remove any things whatsoever found there which they have reasonable cause to believe may constitute or contain relevant information; and
- (c) search or cause to be searched any person found on the premises whom they have reasonable cause to believe to be in possession of any relevant information, but no person shall be searched except by a person of the same sex.

(5) In the case of any information stored in any electronic form which is information that—

- (a) the Competent Authority or those authorised by it when entering or having entered the premises as mentioned in subsection (4) above has reasonable cause to believe may constitute or contain relevant information; and
- (b) is contained in any electronic device in the premises or accessible from the premises,

the power of seizure under subsection (4) shall include–

- (i) a power to require the information to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form; and
- (ii) a power to remove the electronic equipment for examination elsewhere by the Competent Authority or persons authorised by the Competent Authority.

(6) The Competent Authority or persons authorised thereby seeking to exercise the powers conferred by a warrant under this section–

- (a) if the occupier of the premises concerned is present at the time the search is to begin, shall supply a copy of the warrant endorsed with his name to the occupier;
- (b) if at that time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, shall supply such a copy to that person; and
- (c) if neither subparagraph (a) nor subparagraph (b) above applies, shall leave such a copy in a prominent place on the premises.

(7) Where entry to premises has been made with a warrant under this section, and the Competent Authority or persons authorised has seized any things under the authority of the warrant, he shall endorse on or attach to the warrant a list of the things seized.

(8) The Competent Authority or persons authorised when he removes anything in the exercise of the power conferred by this section shall, if so requested by a person showing himself–

- (a) to be the occupier of premises from which it was removed; or

- (b) to have had custody or control of it immediately before the removal,

provide that person with a record of what he removed.

(9) The Competent Authority shall provide the record within a reasonable time from the making of the request for it.

(10) Where anything which has been removed by the Competent Authority or person authorised is of such a nature that a photograph or copy of it would be sufficient for the purposes of complying with the request, it shall not be retained longer than is necessary to establish that fact and to obtain the photograph or copy.

(11) Subject to subsection (15) below, if a request for permission to be granted access to anything which—

- (a) has been removed by the Competent Authority; and
- (b) is retained by the Competent Authority for the purpose of complying with a request,

is made to the Competent Authority by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of any such person, the Competent Authority shall allow the person who made the request access to it under the supervision of any officer of the Competent Authority.

(12) Subject to subsection (15) below, if a request for a photograph or copy of any such thing is made to the Competent Authority by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of any such person, the Competent Authority shall—

- (a) allow the person who made the request access to it under the supervision of an officer of the Competent Authority for the purpose of photographing or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

(13) Where anything is photographed or copied under subsection (12)(b) above, the photograph or copy shall be supplied to the person who made the request.

(14) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(15) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the Competent Authority has reasonable grounds for believing that to do so would prejudice its ability to comply with the request.

(16) For the purposes of subsection (5) information is stored in an electronic form if it is held in, maintained by, accessed through or retrievable from any equipment or thing constituting or based on technology having electrical, magnetic, optical, electro-magnetic or similar capabilities, whether digital, analogue or otherwise.

**Power to obtain production order.**

14.(1) This section applies when the Competent Authority considers it necessary to obtain from any person in Gibraltar information in order to comply with a request.

(2) In any case to which this section applies, the Competent Authority may apply to the Magistrates' Court for an order to produce such information.

(3) If on an application under subsection (2) the court is satisfied that the conditions in subsection (7) are fulfilled, it may make an order that the person who appears to it to be in possession or control of the information to which the application relates shall—

- (a) produce it to the Competent Authority or a person authorised by the Competent Authority to take away; or
- (b) give the Competent Authority or a person authorised by the Competent Authority access to it,

within such period as the order may specify.

(4) The period to be specified in an order under subsection (3) shall be 14 days, unless it appears to the court that a longer or shorter period would be appropriate in the particular circumstances of the application.

(5) The conditions referred to in subsection (3) are that the court is satisfied that—

- (a) the Competent Authority has certified the request is in accordance with this Act;
- (b) the information to which the application relates is in the possession or under the control of a person in Gibraltar (whether the information itself be or is not in Gibraltar);
- (c) the information to which the application relates does not include items subject to legal privilege or items subject to protection as secret, pursuant to this Act;
- (d) a notice in accordance with section 11 has been issued; and
- (e) there are no reasonable grounds for not entertaining the request.

(6) Where the court makes an order under subsection (3)(b) in relation to information held on any premises, it may, on the application of the Competent Authority, order any person who appears to it to be entitled to grant entry to the premises to allow the Competent Authority or any person or persons authorised by the Competent Authority for that purpose to enter the premises to obtain access to the information.

(7)–

- (a) The Minister, following consultation with the Chief Justice, may make rules governing the procedure in relation to applications for the grant, discharge and variation of orders under subsection (3); and
- (b) the Chief Justice may make rules of court in relation to proceedings relating to such orders.

(8) Where the information to which an order under subsection (3) relates consists of information maintained as an electronic record, such information shall be produced in a form in which it can be taken away and in which it is visible and legible or in a form in which it is visible and legible, as the case may be.

(9) Where, pursuant to a request concerning criminal proceedings or investigations, an order under subsection (3) has been made or has been applied for, and has not been refused, or a warrant under section 13 has been issued, whoever, knowing or suspecting that a request has been made, or that an investigation into any matter to which a request relates is taking place, makes any disclosure which is likely to prejudice the proceedings or the investigation to which the request may relate, is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding one year or to a fine not exceeding level 5 on the standard scale or both.

(10) In proceedings against a person for an offence under subsection (9), it is a defence to prove—

- (a) that he did not know or believe that the disclosure was likely to prejudice the request or investigation; or
- (b) that he had lawful authority or reasonable excuse for making the disclosure.

(11) Any documents or other information obtained under an order by virtue of subsection (3) shall be brought immediately to the Competent Authority to be dealt with according to this Act.

(12) For the purposes of subsection (8) an electronic record means a record processed and maintained by technology having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise.

**Privilege.**

15.(1) No person shall be obliged under this Act to provide testimony or information which is an item subject to legal privilege.

(2) No person shall be obliged under this Act to provide testimony or information which would disclose any trade, business, industrial, commercial or professional secret or trade process.

(3) Save as aforesaid, the obligation of persons to provide testimony and information under this Act shall have effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information contained in section 23 or any enactment or the common law or in any other relationship.

(4) Any person who pursuant to this Act provides testimony or information subject to any obligation as to confidentiality shall be immune to suit from any other person arising from the provision of such information.

**PART IV**  
**Tax examinations**

**Simultaneous tax examinations.**

16.(1) Where at least on Party proposes a simultaneous tax examination, the Competent Authority may, with the prior approval of the Minister, agree in the cases and procedures for the conduct of such simultaneous tax examinations.

(2) Nothing in subsection (1) shall compel the Competent Authority to undertake a simultaneous tax examination if the Minister does not give his approval.

(3) In this section “simultaneous tax examination” means an arrangement where the competent authorities of the relevant Parties and within their respective territories, simultaneously examine the tax affairs of any person in which they have a common or related interest, with a view to exchanging any relevant information which they obtain.

**Tax examinations abroad.**

17.(1) With the prior approval of the Minister, the Competent Authority may make arrangements to allow representatives of the Competent Authority of the applicant State to be present at the appropriate part of a tax examination in Gibraltar.

(2) If the request referred to in subsection (1) is acceded to, the Competent Authority shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the Competent Authority for the conduct of the examination.

(3) Decisions with respect to the conduct of the tax examination referred to in subsection (2) shall be the exclusive competence of the Competent Authority.

**PART V**  
**Information**

**Information to be provided in request for assistance.**

18.(1) A request by an applicant State for assistance under this Act shall indicate where appropriate—

- (a) the authority or agency which initiated the request made by the competent authority;
- (b) the name, address, or any other particulars assisting in the identification of the person in respect of whom the request is made;
- (c) the form in which the competent authority wishes the information to be supplied in order to meet its needs; and
- (d) whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of section 20(2)(g).

(2) Where the Competent Authority receives a request for information that complies with the criteria set out in Article 18(1) of the Convention, it shall forward any other information relevant to the request for assistance as soon as such information comes to its knowledge.

**PART VI**  
**Response and limitation of assistance**

**Response to request for assistance.**

19.(1) If a request for assistance is complied with, the Competent Authority shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.

(2) If a request for assistance is declined, the Competent Authority shall inform the applicant State of that decision and the reason for it as soon as possible.

(3) If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the

Competent Authority is in a position to do so, it shall supply the information in the form requested.

**Protection of Persons and Limitations to the Convention obligations.**

20.(1) Nothing in this Act shall affect any enactment, rule of law or other provision, whether administrative or otherwise, which provides a defence to or otherwise safeguards a person's rights.

(2) Nothing in this Act shall not be construed as an obligation on the Competent Authority to provide the assistance referred to in sections 8, 9, 10, 16 and 17 when the request—

- (a) is for the Competent Authority to carry out measures that are at variance with the laws of or administrative practice in Gibraltar;
- (b) seeks that measures are carried out which are contrary to public policy;
- (c) requires information to be supplied which is not obtainable under the laws of or administrative practice in Gibraltar;
- (d) requires information to be supplied that would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information the disclosure of which would be contrary to public policy;
- (e) is for administrative assistance and the Competent Authority considers the taxation in the applicant State is contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the Government has concluded with the applicant State;
- (f) is for the provision of administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, discriminates against a Gibraltar national as compared with a national of the applicant State in the same circumstances; or

- (g) is for administrative assistance and the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty.

(3) If information is requested by the applicant State in accordance with this Act, the Competent Authority shall use its information gathering measures under sections 11 to 14 to obtain the relevant information, even though the Competent Authority may not need such information for its own tax purposes.

(4) The obligation contained in subsection (3) is subject to the limitations contained in this Act, but in no case shall such limitations, in particular, those contained in subsections (1) and (2), be construed as permitting the Competent Authority to decline to supply the information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of this Act, including in particular those in subsections (1) and (2), be construed as permitting the Competent Authority to decline to supply the information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

**Time limit.**

21. The Competent Authority is not required to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

**PART VII  
General**

**Conflicting information.**

22. If the Competent Authority receives, from another Party, information about a person's tax affairs which appears to it to conflict with information in its possession, it shall inform the Party which has provided the information.

**Confidentiality.**

23.(1) Section 3 (*Confidentiality*) of the Income Tax 2010 shall apply with such modifications as circumstances may require, to information obtained by the Competent Authority under this Act or which it receives from a Party.

(2) Where the Competent Authority receives information from a party which is outside the scope of section 3, the Competent Authority shall not use that information.

(3) Notwithstanding subsections (1) and (2)–

- (a) information received by the Competent Authority may be used when such information may be used under the laws of the supplying Party and the competent authority of that Party authorises such use; and
- (b) information provided by a Party to the Competent Authority may be transmitted to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

**Language.**

24. Any requests for assistance made to the Competent Authority and any answers provided shall–

- (a) be in the English language; or
- (b) in any of the official languages of the OECD or the Council of Europe if the Competent Authority has previously agreed this with the requesting Party.

**Costs.**

25. Unless the Competent Authority has, with the Minister's prior consent, agreed with a Party–

- (a) ordinary costs incurred in providing assistance shall be borne by the Competent Authority; and

- (b) extraordinary costs incurred in providing assistance shall be borne by the applicant State.

**Proceedings.**

26.(1) Proceedings relating to measures taken under the Convention by the requested State shall only be brought before the appropriate body of the State and, where Gibraltar is the recipient of such a request, proceedings shall be brought before the Supreme Court.

(2) Proceedings relating to measures taken by the Competent Authority where it has made a request for administrative assistance to a Party, in particular where the proceedings relate to the recovery of tax, the existence or the amount of the tax claim; or the instrument permitting its enforcement, shall be brought before the Supreme Court.

(3) If the proceedings referred to in subsection (2) are instituted, the Competent Authority shall inform the requested State of such proceedings.

(4) Where the Competent Authority is the recipient of a request for administrative assistance from the applicant State and it receives information from—

- (a) the applicant State; or
- (b) or an interested person,

that proceedings relating to measures taken by the applicant State are the subject of proceedings before the relevant bodies in that State, the Competent Authority shall suspend the procedure for the provision of administrative assistance pending the decision of the body in question and if necessary, it shall consult with the applicant State.

(5) As soon as a final decision in the proceedings has been given, the Competent Authority shall notify the requested State of the decision and the implications which it has for the request of assistance.

(6) This section shall not apply to applications under sections 13 and 14.

**Regulations.**

27. The Government may by Regulations make provision for—

- (a) the administration or implementation of this Act;
- (b) compliance with any OECD, Council of Europe, European Union or other International obligations.

**Immunity.**

28. The Government and the competent authority shall not be liable in damages for anything done or omitted in the discharge of their functions under this Act unless it is shown that the act or omission was in bad faith.

**Relationship with other legislation.**

29. Nothing in this Act shall affect the provision of assistance under any other enactment.

**SCHEDULE**

Section 11(2)

**Particulars to be included in a notice to produce information**

1. The identity of the requesting Party.
2. The tax matter to which the request relates.
3. The person or persons subject to such taxes or taxation matters.
4. A statement that in the opinion of the Competent Authority the request conforms with the provisions of this Act.
5. Details, sufficient to enable the person served with the notice to identify the information requested by the notice.
6. The reason for believing that the information requested is in the possession or control of the person served with the notice or is obtainable by that person.
7. The form and manner in which the information must be provided.
8. Details of the time, date and place where such information must be delivered.
9. Details of any copies of the relevant information that must be provided and the manner in which it must be verified or authenticated.
10. Details of any access required by the Competent Authority to the original of any record or document, or to any electronic data storing device, such as to enable the Competent Authority to verify the authenticity of any document or record provided or the accuracy or completeness of any information provided.

**EXPLANATORY MEMORANDUM**

This Act provides for the implementation of the Convention on Mutual Administrative Assistance in Tax Matters of 21 January 1988 as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters of 27 May 2010.