

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 4464 of 17<sup>th</sup> May, 2018

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**B. 10/18**

**BILL**

**FOR**

**AN ACT** to amend the Mutual Legal Assistance (International) Act 2005, Mutual Legal Assistance (European Union) Act 2005 and Drug Trafficking Offences Act, 1995.

**ENACTED** by the Legislature of Gibraltar.

**Short title.**

1. This Act may be cited as the Mutual Legal Assistance (Miscellaneous Amendments) Act 2018.

**Commencement.**

2. This Act comes into operation on the day of publication.

**Amendment of the Mutual Legal Assistance (International) Act 2005.**

3.(1) The Mutual Legal Assistance (International) Act 2005 is amended in accordance with the provisions of this section.

(2) In section 2, substitute the definition of “State” with-

““State” means a State or other political subdivision of a state or any territory falling under the jurisdiction of a state-

(a) that is-

- (i) party to an agreement with the Government on mutual legal assistance in criminal matters based on the principle of reciprocity; and

- (ii) included in Schedule 2; or
  - (b) that, on a case by case basis, provides an undertaking in writing that it would be able to reciprocate in respect of a similar mutual legal assistance request issued by Gibraltar and received by it.”.
- (3) In section 12(1)(b) after “warrant” insert “or order”.
- (4) Substitute section 15(1) with-
- “15.(1) Part 2 of the Criminal Procedure and Evidence Act 2011 shall have effect as if references to an-
- (a) offence in respect of which an application may be made under section 12 of that Act (including by virtue of Schedule 14 to that Act); and
  - (b) indictable offence in Schedule 1 to that Act,
- included any conduct which-
- (i) constitutes an offence under the law of a State or territory outside Gibraltar; and
  - (ii) would, if it occurred in Gibraltar, constitute an indictable offence or an offence included in Schedule 14 of that Act (as the case may be).”.

**Amendment of the Mutual Legal Assistance (European Union) Act 2005.**

4.(1) The Mutual Legal Assistance (European Union) Act 2005 is amended in accordance with the provisions of this section.

- (2) In section 12(1)(b) after “warrant” insert “or order”.
- (3) Substitute section 15(1) with-
- “15.(1) Part 2 of the Criminal Procedure and Evidence Act 2011 shall have effect as if references to an-

- (a) offence in respect of which an application may be made under section 12 of that Act (including by virtue of Schedule 14 to that Act); and
- (b) indictable offence in Schedule 1 to that Act,

included any conduct which-

- (i) constitutes an offence under the law of a State or territory outside Gibraltar; and
- (ii) would, if it occurred in Gibraltar, constitute an indictable offence or an offence included in Schedule 14 of that Act (as the case may be).”.

**Amendment of the Drug Trafficking Offences Act, 1995.**

5.(1) The Drug Trafficking Offences Act, 1995 is amended in accordance with the provisions of this section.

(2) In section 40(2) substitute-

“he may, if he thinks fit, by a notice in writing nominate a court in Gibraltar to receive such of the evidence to which the request relates as may appear to the court to be appropriate for the purpose of giving effect to the request.”

With

“he may, if he thinks fit-

- (i) by a notice in writing nominate a court in Gibraltar to receive such of the evidence to which the request relates as may appear to the court to be appropriate for the purpose of giving effect to the request; or
- (ii) give a written direction that a search warrant or order be applied for under Part 2 of the Criminal Procedure and Evidence Act 2011.”.

**EXPLANATORY MEMORANDUM**

This Bill amends the Mutual Legal Assistance (International) Act 2005, Mutual Legal Assistance (European Union) Act 2005 and Drug Trafficking Offences Act, 1995 to enhance mutual legal assistance that can be provided in criminal matters.