

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4817 GIBRALTAR 4th February 2021

B. 05/21

BILL

FOR

AN ACT to amend the Mutual Legal Assistance (Council of Europe) Act 2018.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Mutual Legal Assistance (Council of Europe) (Amendment) Act 2021.

Commencement.

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

Amendment of the the Mutual Legal Assistance (Council of Europe) Act 2018.

3.(1) The Mutual Legal Assistance (Council of Europe) Act 2018 is amended in accordance with this section.

(2) In section 2 –

(a) in subsection (1) in the definition “relevant offence” for paragraph (a) substitute-

“(a) which is not a political offence or an offence connected with a political offence; and”;

(b) in subsection (2) delete the comma after “Minister” and delete “offence”.

(3) After section 5(2), insert-

“(3) The Mutual Legal Assistance (International) Act 2005 shall for the purposes of this Act be deemed to be modified as if the definition of “offence” in section 2 of that Act included fiscal offences.”.

(4) After section 11, insert-

“Use of information and evidence.

11A. Any information or evidence obtained through a request for assistance, may not, without the consent of the Judicial Authority, be used for any purpose other than that specified in the request.”.

(5) After section 17, insert-

“Power to amend the Act to implement conventions and international agreements.

18.(1) The Minister may, by regulations, amend this Act for the purpose of implementing in Gibraltar-

- (a) an international agreement or convention; or
- (b) any other international obligations or standards concerned with the Convention; or
- (c) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations or standards.

(2) Regulations made under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Minister considers it necessary or expedient.”.

EXPLANATORY MEMORANDUM

This Bill implements, in part, the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, signed in Strasbourg and dated the 17th March 1978. The Bill removes the reference to “fiscal offence” in section 2 of the Mutual Legal Assistance (Council of Europe) Act 2018. It also modifies the Mutual Legal Assistance (International) Act 2005 for the purposes of the Act by allowing requests for assistance for fiscal matters. Section 11A provides a restriction on the requesting State as to the use of any evidence or information provided under a request for assistance. Finally, the Bill inserts a regulation making power under section 18 to make amendments to the Act by regulation for the purposes of implementing international conventions and agreements.

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