

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5041 GIBRALTAR Thursday 23rd March 2023

B. 04/23

BILL

FOR

AN ACT to amend the Proceeds of Crime Act 2015; to amend the Friendly Societies Act; and to amend the Charities Act.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Proceeds of Crime (Miscellaneous Amendments) Act 2023.

Commencement.

2. This Act shall come into operation on the day of publication.

PART 1

AMENDMENT OF THE PROCEEDS OF CRIME ACT 2015

3. The Proceeds of Crime Act 2015 is amended in accordance with this Part.

4. Section 1E is amended as follows—

(a) in subsection 2(b), for “at the time of the exchange.”; and”, substitute “at the time of the exchange.”; and

(b) for subsection (3), substitute—

“(3) The Head shall designate at least one contact person at the GFIU responsible for receiving requests from other FIUs and in the absence of a designation the Head shall be the contact person.”.

5. In section 1K, after subsection (1)(b), insert—

“(ba) a competent authority, agency or department outside Gibraltar whose functions are connected with or related to—

- (i) the prevention of abuse of financial systems or the prevention of money laundering, terrorist financing or proliferation financing;
- (ii) the prevention, investigation, detection or prosecution of criminal conduct; or
- (iii) the safeguarding against, and the prevention of, threats to national security,

which may, at the initiative of the GFIU or on written request, obtain information which the Head reasonably believes is relevant to the fulfilment of those functions, or any of them.

6. After section 4H, insert—

“Voluntary disclosure of information.

4I.(1) A person may disclose information to the GFIU if the disclosure is made for the purposes of the exercise of a GFIU function.

(2) Information obtained by the GFIU pursuant to subsection (1) may be used by the GFIU towards the fulfilment of its other functions.

(3) A disclosure of information pursuant to subsection (1) does not breach—

- (a) an obligation of confidence owed by the person making the disclosure, or
- (b) any other restriction on the disclosure of information (however imposed).

PART 2

AMENDMENT OF THE FRIENDLY SOCIETIES ACT

7. The Friendly Societies Act is amended in accordance with this Part.

8. Schedule 1A is amended as follows—

- (a) In paragraph (b), for “encouraging and undertaking”, substitute “encouraging”; and
- (b) In paragraph (c), for “working with”, substitute “encouraging”.

PART 3

AMENDMENT OF THE CHARITIES ACT

9. The Charities Act is amended in accordance with this Part.

10. Schedule 3 is amended as follows—

- (a) In paragraph (b), for “encouraging and undertaking”, substitute “encouraging”;
and
- (b) In paragraph (c), for “working with”, substitute “encouraging”.

EXPLANATORY MEMORANDUM

This Bill makes amendments to provide additional clarity in respect to how the Registrar under the Friendly Societies Act and the Commissioners under the Charities Act will encourage outreach and educational programmes to raise and deepen awareness among societies and charities, respectively.

Section 1E of the Proceeds of Crime Act 2015 is amended to allow the Head to designate one or more persons as contact persons for receiving requests from other FIUs, and in the absence of such designation the Head shall be the contact person. Section 1K is amended to allow the GFIU to disclose information to competent authorities, agencies or departments outside Gibraltar whose functions are connected with or relate to (i) the prevention of abuse of financial systems or the prevention of money laundering, terrorist financing or proliferation financing; (ii) the prevention, investigation, detection or prosecution of criminal conduct; or (iii) the safeguarding against, and the prevention of, threats to national security. A new section 4I is inserted which allows any person to disclose information to the GFIU on a voluntary basis provided that the disclosure is for the purposes of the exercise of a GFIU function.