

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4129 of 1 December, 2014

LEGAL NOTICE NO. 232 OF 2014.

INTERPRETATION AND GENERAL CLAUSES ACT

MUTUAL LEGAL ASSISTANCE (EUROPEAN UNION) ACT 2005 (AMENDMENT) REGULATIONS 2014

In exercise of the powers conferred upon it under section 23(g)(ii) of the Interpretation and General Clauses Act and all other enabling powers, and in order to transpose, in part, Council Decision of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (2000/365/EC), the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Mutual Legal Assistance (European Union) Act 2005 (Amendment) Regulations 2014 and come into operation on 1 December 2014.

Amendments to Act.

2. The Mutual Legal Assistance (European Union) Act 2005 is amended in accordance with these Regulations.

Amendment to section 2 of the Act.

3. In section 2 of the Act, in the definition of “the Schengen Convention”, insert “between the Government of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, as the same may be amended from time to time, and to the extent that individual provisions apply to Gibraltar” at the end of that definition.

Amendments to section 3 of the Act.

4. Section 3 of the Act is amended—

- (a) by inserting the following subsection after subsection (1)—

“(1A) This Part shall also apply to a request for assistance that–

- (a) relates to excise duties, value added tax or customs duties; and
- (b) the mutual assistance requested concerns acts punishable only by a fine by virtue of being infringements of the rules of law in proceedings brought by the administrative authorities.”;

(b) by inserting the following paragraph after subsection (2)(b)–

- “(c) where the request relates to excise duties, value added tax or customs duties and the alleged amount of duty underpaid or evaded does not exceed 25,000 Euros or where the presumed value of the goods exported or imported without authorisation does not exceed 100,000 Euros, unless, given the circumstances or identity of the accused the case is deemed to be extremely serious by the requesting State.”.

Amendment to section 5 of the Act.

5. For section 5(2) of the Act substitute–

“(2) Where the process is to be served inside Gibraltar and is written in a language that the recipient may not understand, it shall–

- (a) be accompanied by a translation of the process, or at least the material parts, into English shall be translated into English; or
- (b) if that authority knows that the addressee understands only some other language the process, or at least the material parts, must be translated into that other language.”.

Amendment to section 7 of the Act.

6. For section 7(3)(b) of the Act substitute–

“(b) provide the court with a copy of the process, or of so much of it as is material, translated into–

- (i) the official language of the State; or
- (ii) if it is known that the addressee understands only some other language, into that other language.”.

Amendment to section 8 of the Act.

6. For section 8 of the Act substitute–

“8. Process to which section 7 applies shall be sent by post but may, instead of being served by post, be served on a person outside Gibraltar in accordance with arrangements made by the Central Authority where the addressee's address is unknown or where the person requesting the service of process, or a court, requires it to be served in person.”.

Amendment to section 11 of the Act.

7. In section 11(2) of the Act after “overseas authority, be” insert “forwarded or”.

Dated 1st December, 2014.

G H LICUDI Q.C.,
Minister with responsibility for Justice,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations further transpose into the law of Gibraltar Council Decision of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (2000/365/EC).

