

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5166 GIBRALTAR Thursday 8th August 2024

---

---

LEGAL NOTICE NO. 151 OF 2024

## PROCEEDS OF CRIME ACT 2015

### PROCEEDS OF CRIME ACT 2015 (AMENDMENT) REGULATIONS 2024

In exercise of the powers conferred on it by section 184ZA(1) of the Proceeds of Crime Act 2015, the Government has made these Regulations—

#### **Title.**

1. These Regulations may be cited as the Proceeds of Crime Act 2015 (Amendment) Regulations 2024.

#### **Commencement.**

2. These Regulations come into operation on the day of publication.

#### **Amendment of the Proceeds of Crime Act 2015.**

3.(1) The Proceeds of Crime Act 2015 is amended in accordance with this section.

(2) Insert after section 180—

#### **“Request for evidence in criminal proceedings and criminal investigations.**

180A.(1) For the purposes of this section—

“coercive measure” means where a request has been made under this section and the Central Authority requires a warrant or order to provide the assistance sought;

“Strasbourg Convention” means the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime signed in Strasbourg on the 8<sup>th</sup> November 1990;

“Warsaw Convention” means the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism signed on the 16<sup>th</sup> May 2005 in Warsaw;

“Strasbourg state” means a state or territory which has ratified or obtained extension of the Strasbourg Convention, and in the case of Gibraltar, it includes where Gibraltar has extension, or it is expected that extension will be obtained;

- “Warsaw state” means a state or territory which has ratified or obtained extension of the Warsaw Convention, and in the case of Gibraltar, it includes where Gibraltar has extension, or it is expected that extension will be obtained.
- (2) A judge may request assistance from a Strasbourg state or a Warsaw state outside Gibraltar, or both, under this section if–
- (a) an application is made by–
    - (i) a police officer or customs officer for the purposes of a criminal investigation or criminal proceedings; or
    - (ii) a person subject to the criminal investigation or criminal proceedings;
  - (b) the judge thinks that there is evidence or information in a Strasbourg state or Warsaw state outside Gibraltar; and
  - (c) the conditions in subsection (3) are satisfied.
- (3) The conditions referred to in subsection (2)(c) are that–
- (a) a person is subject to criminal proceedings or a criminal investigation in Gibraltar in relation to an offence which–
    - (i) falls within the scope of the Strasbourg Convention or Warsaw Convention, as applied to the requesting state and requested state; and
    - (ii) is provided for under the laws of the requesting state and requested state in relation to coercive measures;
  - (b) the judge thinks that there is evidence or information in a Strasbourg state or Warsaw state outside Gibraltar which is relevant to the criminal proceedings or criminal investigation, and this evidence or information is likely to be of substantial value to the criminal proceedings or criminal investigation.
- (4) The request for assistance may include a request for an order which is the equivalent to orders made by a judge under sections 149, 151, 153, 154, 155, 156, 161, 166, 167, 173, 174 or 178 of this Act.
- (5) The assistance that may be requested under this section is assistance in obtaining evidence or information specified in the request and located outside Gibraltar.
- (6) A request for assistance under this section may be sent–
- (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained;
  - (b) to the government of the Strasbourg state or Warsaw state concerned; or

- (c) to an authority recognised by the government of the Strasbourg state or Warsaw state concerned as the appropriate authority for receiving requests for assistance of this kind.
- (7) In a case of urgency, a request for assistance under this section may be sent to the International Criminal Police Organisation (INTERPOL) for forwarding to the court, tribunal, government or authority mentioned in subsection (6).
- (8) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.

**Evidence under section 180A: restrictions on use.**

- 180B.(1) This section applies to evidence obtained by means of a request for assistance under section 180A.
- (2) The evidence must not be used for any purpose other than-
    - (a) for the purposes of the criminal investigation for which it was obtained; or
    - (b) for the purposes of criminal proceedings or any proceedings arising out of such proceedings.
  - (3) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.”.

Dated: 8<sup>th</sup> August 2024.

N.FEETHAM KC,  
Minister with responsibility for Justice,  
For the Government.

---

**EXPLANATORY MEMORANDUM**

These Regulations are made for the purposes of implementing, in part, some obligations under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime signed in Strasbourg on the 8th November 1990, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism signed on the 16<sup>th</sup> May 2005 in Warsaw. The regulations permit a request for assistance to be sent to other Strasbourg states and Warsaw states from Gibraltar.