

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE
No. 4376 of 27 June, 2017**

LEGAL NOTICE NO. 125 OF 2017.

PROCEEDS OF CRIME ACT 2015

**REGISTER OF ULTIMATE BENEFICIAL OWNERS
(AMENDMENT) REGULATIONS 2017**

In exercise of the powers conferred upon it by section 184 of the Proceeds of Crime Act 2015 and for the purpose of transposing, in part, Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, the Government has made the following Regulations—

Title.

1. These Regulations may be cited as the Register of Ultimate Beneficial Owners (Amendment) Regulations 2017.

Commencement.

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

Amendments to the Register of Ultimate Beneficial Owners Regulations 2017.

3.(1) The Register of Ultimate Beneficial Owners Regulations 2017 are amended in accordance with this regulation.

(2) In regulation 3(1) in the definition of “officer” delete-

- (a) “beneficiary,”; and
- (b) “who is in default”.

(3) After regulation 3(3) insert-

“(4) The term “legitimate interest” shall be interpreted in conformity with the object and purpose of the Directive, which is the prevention of the use of the financial system for the purposes of money laundering or terrorist financing: Regard shall be had to recital (14) of the Directive which provides that data may be provided to those persons who are able to demonstrate a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences, such as corruption, tax crimes and fraud.”.

(4) Insert the following after regulation 41-

“Requests

Requests to trustees.

41A.(1) The Registrar or the GFIU may make a request under this regulation to a trustee of an express trust for the provision of information, which the trustee must record and maintain, under section 61 of the Trustees Act.

(2) In this regulation, “express trust” includes an express trust governed by Gibraltar law which does not generate tax consequences.”.

Dated 27th June, 2017.

A. J. ISOLA,
Minister with responsibility for financial services for the Government

EXPLANATORY MEMORANDUM

These Regulations provide for amendment to the transposition of part of Directive (EU) 2015/849 (the 4th Anti-Money Laundering Directive), namely articles 30 and 31 of such Directive.

The term “legitimate interest” shall be interpreted in conformity with the object and purpose of the Directive, which is the prevention of the use of the financial system for the purposes of money laundering or terrorist financing: Regard shall be had to recital (14) of the Directive which provides as follows “persons who are able to demonstrate a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences, such as corruption, tax crimes and fraud, are granted access to beneficial ownership information, in accordance with data protection rules. The persons who are able to demonstrate a legitimate interest should have access to information on the nature and extent of the beneficial interest held consisting of its approximate weight.” The onus of proving to the Registrar a legitimate interest is on the person seeking access to the data. Any request to the Registrar must be specific and identify the individual and the corporate or legal entity in respect of which the request is made and the legitimate interest on the basis of which the request is made.