

# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5052 GIBRALTAR Thursday 11th May 2023

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B. 10/23

## BILL

FOR

AN ACT to amend the Transnational Organised Crime Act 2006, to make further provision under the United Nations Convention against Transnational Organised Crime.

ENACTED by the Legislature of Gibraltar.

### Title.

1. This Act may be cited as the Transnational Organised Crime (Amendment) Act 2023.

### Commencement.

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

### Amendments to the Transnational Organised Crime Act 2006.

3.(1) The Transnational Organised Crime Act 2006 is amended in accordance with this section.

(2) Substitute section 5 with-

#### “Jurisdiction.

5. A court in Gibraltar shall have jurisdiction to hear any matter to which section 4 applies -

- (a) where the offence was committed in Gibraltar;
- (b) where the offence was committed outside Gibraltar, and it has an effect in Gibraltar;
- (c) where the offence was committed wholly or partly on board a vessel that is registered under the laws of Gibraltar at the time the offence was committed.”

(3) In section 8, for “Where” substitute “Subject to section 8A, where”.

(4) After section 8, insert-

**“Refusal and postponement of assistance.**

8A.(1) In addition to refusal under section 3(2)(b) of the Mutual Legal Assistance (International) Act 2005, a request for assistance falling under section 8 may be refused-

- (a) where the authorities in Gibraltar would be prohibited from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceeding in Gibraltar;
- (b) if the grant of the request would be contrary to any provision of Gibraltar law; or
- (c) the request does not fall within Article 18 of the Convention.

(2) The provision of assistance under section 8 may be postponed if it might interfere with an ongoing investigation, prosecution or judicial proceeding.”.

(5) In section 9-

(a) substitute subsection (1)(a) with-

“(a) the court must proceed as if the confiscation order made by that State is an external order to which Chapter 2 of the Proceeds of Crime Act 2015 (External Requests and Orders) Order 2019 applies; or”.

(b) delete “a court in Gibraltar shall proceed” in subsection (1) (b).

(6) Delete section 10.

(7) After section 16 insert-

**“Power to amend the Act.**

16A.(1) The Government may make regulations under this section to amend, add to or substitute any matter provided for in the Act for the purpose of implementing-

- (a) an international agreement or convention extended to Gibraltar; or
- (b) any international obligations or standards concerned with the Convention or any international agreement or convention; or

- (c) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations and standards.
- (2) Regulations made under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Government considers it necessary or expedient.
- (3) Section 23(b) of the Interpretation and General Clauses Act shall not apply to any regulations made under this section.”.

**EXPLANATORY MEMORANDUM**

This Bill amends the Transnational Organised Crime Act 2006 in order to make further provision in accordance with the Convention, and adds a regulation making power to amend the Act for the purposes of implementing the Convention and other international agreements.