

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5320 GIBRALTAR Friday 3rd July 2026

LEGAL NOTICE NO. 143 OF 2026

PROCEEDS OF CRIME ACT 2015

PROCEEDS OF CRIME ACT 2015 (INVESTIGATIONS ANCILLARY TO A CRIMINAL INVESTIGATION OR PROCEEDING UNDER THE TGEU) ORDER 2026

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In the exercise of powers conferred on the Government by section 184ZB of the Proceeds of Crime Act 2015, and all other enabling powers, and for the purposes of implementing, in part, into the Laws of Gibraltar, Chapter 7 of Title V of Part Two, Articles 162 to 168 of the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, the Government has made this Order-

PART 1 PRELIMINARY

Title.

1. This Order may be cited as the Proceeds of Crime Act 2015 (Investigations Ancillary to a Criminal Investigation or Proceeding under the TGEU) Order 2026.

Commencement.

2. This Order shall come into operation on the Implementation Date.

Interpretation.

3.(1) In this Order-

“Appropriate officer” means the Attorney General, a police officer or a customs officer;

“the Act” means the Proceeds of Crime Act 2015;

“Article” has the same meaning as in section 3(1) of the Treaty on Gibraltar and the European Union Act 2026;

“Central Authority” means the Minister with responsibility for Justice or any other person or body as may be determined by the Minister for Justice;

“competent authorities of a Member State” means those authorities that are notified under Article 182(1) or designated under Article 182(2) of the TGEU;

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

“the EU” (or “the Union”) has the meaning given by section 3(2) of the Treaty on Gibraltar and the European Union Act 2026;

“judge” means judge of the Supreme Court;

“Member State” has the same meaning as in Article 3 of the TGEU;

“request” means a request for assistance;

“requested State” means a state or territory-

- (a) to which the TGEU applies; and
- (b) that receives a request from another state or territory that is also covered by the TGEU,

and this includes Gibraltar;

“requesting State” means a state or territory-

- (a) to which the TGEU applies; and
- (b) that sends a request to another state or territory that is also covered by the TGEU, and this includes Gibraltar;

“Specialised Committee on the Circulation of Persons” refers to the Committee established under Article 23 of the TGEU;

“Title” has the same meaning as in section 3 of the Treaty on Gibraltar and the European Union Act 2026;

“the Treaty on Gibraltar and the European Union” (or “TGEU”) has the meaning given by section 5 of the Treaty on Gibraltar and the European Union Act 2026.

(2) Any reference to an “Annex” from the TGEU is a reference to that Annex as amended or modified under Article 184 of the TGEU.

Scope of this Order.

4. This Order implements Chapter 7 of Title V of Part Two, Articles 162 to 168, 176 to 178, 183 to 185, 187, and 189 to 194 of the TGEU, and applies to incoming requests and outgoing requests.

Application of the Act and Parts 1 to 5 of the Proceeds of Crime Act 2015 (External Investigations Ancillary to a Criminal Investigation or Proceeding) Order 2019.

5. In respect of a request to which article 4 applies-

- (a) where the provisions of the Act make provision for a request of that kind, the Act applies with the necessary modifications;

- (b) where the Act does not make provision for a request of that kind, but the Proceeds of Crime Act 2015 (External Investigations Ancillary to a Criminal Investigation or Proceeding) Order 2019 does make provision for the request, that Order applies with the necessary modifications; and
- (c) where the Proceeds of Crime Act 2015 (External Investigations Ancillary to a Criminal Investigation or Proceeding) Order 2019 does not apply to a request, this Order applies.

PART 2

REQUESTS UNDER THE TGEU

Objective and principles of cooperation.

6.(1) This article implements Articles 162 and 164 of the TGEU.

(2) Any request under this Order must be in accordance with the objective and principles in Article 162, and the obligation to assist under Article 164.

(3) Requests sent from the competent authorities of a Member State to the Central Authority must be given the same priority as a domestic case.

Requests from Gibraltar.

7.(1) On the application of an Appropriate officer, a judge may request assistance from a Member State under this article where the judge believes that there is evidence in that Member State.

(2) A request under paragraph (1) may include a request for an order which is equivalent to orders made by a judge under sections 149, 151, 153, 154, 155, 156, 161, 166, 167, 173, 174 or 178 of the Act.

(3) A request under this article may be sent to the competent authorities of a Member State, and must comply with the requirements of this Order.

Transmission of requests.

8.(1) This article implements Article 183 of the TGEU.

(2) An initial transmission of a request under this Order must be sent in accordance with Article 6(1) of the TGEU.

(3) Communications other than those referred to in paragraph (2) may be made directly between the Central Authority and the competent authorities of a Member State.

(4) In urgent cases, an initial transmission of a request must comply with paragraph (2), and the court may-

(a) receive a request directly from a judicial authority in a requesting State; and

(b) send a request directly to the judicial authority of the requested State,

and-

(i) in the case of subparagraph (a), a copy of the request must be sent at the same time to the Central Authority;

(ii) in the case of subparagraph (b), a copy of the request must be sent at the same time to the competent authorities in the Member State.

(5) Where a request is sent in accordance with paragraph (4), and the authority in Gibraltar that receives the request is not competent to deal with the matter, this authority may then forward the request to the competent authority in Gibraltar, and inform the requesting State that it has done so.

(6) Where there is an initial transmission of a request, and that request does not concern coercive action, the procedure in Article 6(1) of the TGEU must be complied with.

(7) Requests in draft form-

(a) may be received by the Central Authority from the judicial authorities of the requesting State in order to determine the sufficiency of information in the request;

(b) may be sent by the Central Authority to the judicial authorities of the requested State for the same purpose as set out in subparagraph (a).

Form of request.

9.(1) This article implements Articles 184 and 185 of the TGEU.

(2) A request under this Order must be in writing.

(3) Requests may be transmitted by any means of communication (which includes in electronic form), provided the requesting State can, upon request, produce a written record of the communication and the request in original form at any time.

(4) All requests to Gibraltar should be made in English or accompanied by a certified translation into English and any supporting documentation, if not in English, must be accompanied by a certified translation into English.

(5) Where requests are sent to a Member State, these must be in the official language or official languages of the requested State as notified by the Union to the Specialised Committee on the Circulation of Persons under Article 183(3) or (8).

(6) Save as otherwise provided in this Order, any request or document transmitted for the purposes of this Order does not require any form of legalisation.

Content of request.

10.(1) This article implements Article 186 of the TGEU.

(2) A request to a Member State under this Order must specify-

- (a) the authority making the request;
- (b) the authority carrying out the investigation;
- (c) the object of and the reason for the request;
- (d) the relevant facts of the case, except where the request is limited to service;
- (e) where necessary and insofar as possible-
 - (i) the identity, date and place of birth, nationality and location of the person or the persons concerned, or seat in the case of a legal person or legal persons;
 - (ii) the property in relation to which the cooperation is sought, its location, its connection with the person or persons concerned, any connection with the offence, together with any information about other persons and their interests in the property;
- (f) where the cooperation involves coercive action-
 - (i) the text of the statutory provisions, or where this is not possible, a statement of the relevant law applicable of the requesting State; and
 - (ii) confirmation that the measure or measures sought, or any other measures having similar effects could be taken in the requesting State under its own domestic law;
- (g) any particular procedure the requesting State wishes to be followed;
- (h) the reasons why it is considered that the requested information is likely to be of substantial value for the purpose of the criminal investigation;
- (i) the grounds for believing that the financial institution in the requested State holds an account or controls one or more accounts, and to the extent available, which a financial institution or financial institutions and accounts may be involved;
- (j) any information available which may facilitate the execution of the request;

(k) supporting documents showing where third parties have had their opportunity to assert their rights in a requesting State;

(l) in the case of –

(i) requests for information on transactions; or

(ii) the monitoring of transactions,

the reasons that the information is relevant to the criminal investigation.

Specific formalities or procedures.

11.(1) This article implements Article 162(3) of the TGEU.

(2) Subject to paragraph (3), where a request is sent from a requesting State, and the request specifies formalities or procedures which are necessary under the domestic law of the requesting State, these must be complied with.

(3) Paragraph (2) does not apply where the formalities and procedures are contrary to the fundamental principles of Gibraltar law.

Spontaneous exchange.

12.(1) This article implements Article 168 of the TGEU.

(2) A police officer or a customs officer may exchange information or evidence with the competent authorities in a Member State, on instrumentalities, proceeds and other property liable to confiscation, where it considers that the disclosure of the information may assist the Member State in carrying out investigations or proceedings or it might lead to a request under Chapter 7.

(3) A police officer or a customs officer may receive information referred in paragraph (2) from a competent authority in a Member State.

Grounds of refusal.

13.(1) This article implements Articles 176 and 189 of the TGEU.

(2) The court may decide not to execute a request from a Member State if-

(a) the request would infringe the principle of ne bis in idem;

(b) the offence to which the request relates would not be an offence under the law of the requested State if committed within that State;

- (c) in relation to a coercive measure under Articles 164 to 168, that measure would not be available under Gibraltar law in a domestic case;
- (d) in relation to a coercive measure under Articles 164 to 168, if the measures sought or any other measures having similar effects would not be permitted under Gibraltar law in a domestic case, or the request would not be authorised by the court.

(3) The ground of refusal in paragraph (2)(b) is only applicable to cooperation under articles 6(1) and 12 insofar as the assistance sought is coercive.

(4) The court must not refuse a request on the basis that-

- (a) a legal person is the subject of an investigation or proceeding; or
- (b) the person mentioned in the request may be both the perpetrator of the underlying criminal offence and the perpetrator of a money laundering offence.

(5) The ground of refusal in paragraph (2)(b), on the basis of reciprocity, does not apply where-

- (a) the request concerns one of the offences listed in Annex 13 of the TGEU as defined by the law of the requesting State; and
- (b) the offences are punishable by the requesting State by a custodial sentence or a detention order for a period of at least 3 years.

(6) The Central Authority must provide reasons to a requesting State for any decision to refuse, postpone or place any conditions in relation to any request.

Postponement.

14.(1) This article implements Articles 178 and 179 of the TGEU.

(2) The Central Authority may postpone acting on a request where acting on it may prejudice an investigation or proceeding in Gibraltar.

(3) If it is likely that a request is to be refused or postponed, the Central Authority must consult the requesting State to consider whether the request may be granted in part or subject to any terms and conditions as it deems necessary.

Defective requests and additional information.

15.(1) This article implements Article 187 of the TGEU.

(2) If a request—

- (a) does not comply with Part Two, Title V, Chapter 7 of the TGEU; or

- (b) contains information provided by the requesting State that is not sufficient to enable the court to consider or deal with a request,

the Central Authority or an Appropriate officer may -

- (i) request that the requesting State amends the request or provides additional information in relation to a request; and
- (ii) set a time limit for the receipt of an amended request or additional information.

(3) The Central Authority may amend a request or provide additional information within the time-period stipulated by that requested State when requested to do so by the requested State pursuant to Article 187.

Confidentiality.

16.(1) This article implements Article 192 of the TGEU.

(2) Except to the extent necessary to execute a request, the fact and substance of a request received by the Central Authority, must be kept confidential.

(3) The Central Authority may request that a request to a requested State be kept confidential, except to the extent necessary for that State to execute that request.

(4) Where a Central Authority receives a request and cannot comply with the requirement of confidentiality, it must promptly inform the requesting State.

(5) Any evidence or information provided by a requested State to the Central Authority must, if not contrary to the fundamental principles under Gibraltar law, and upon a request from the requested State, be kept confidential, except to the extent that its disclosure is necessary for the purposes of the criminal investigation or criminal proceedings to which the request relates.

(6) The Central Authority may request that any evidence or information provided to a requesting State be kept confidential, except to the extent that its disclosure is necessary for the purposes of the criminal investigation or criminal proceedings referred to in the request.

(7) Subject to the provisions of Gibraltar law, where the Central Authority has received spontaneous information under article 12 from a Member State, it must comply with any requirement of confidentiality as required by the Member State.

(8) Where the Central Authority exchanges spontaneous information with a Member State, it may request that the State keep confidential any evidence or information provided to it.

(9) Where the party receiving the information cannot keep the information confidential, it must promptly inform the party transmitting the information.

Limitation on use.

17.(1) This article implements Article 191 of the TGEU.

(2) The Central Authority may make the execution of a request conditional on the requesting State agreeing that any evidence or information obtained from the Central Authority arising from a request under this Order must not, without the prior consent of the Central Authority, be used or transmitted for any other purpose other than that specified in the request.

(3) When the evidence or information is no longer required for the purpose referred to in paragraph (2) (or for any other purpose for which such consent has been obtained), the Central Authority may request that the evidence or information be returned to it, unless it indicates that its return is not necessary.

(4) Where the requested State makes the execution of a request from Gibraltar conditional on the agreement that any information or evidence supplied by it may not without its prior consent be used or transmitted for any other purpose other than the one in the request, the Central Authority must agree to this condition.

(5) Personal data communicated under this Order to the Central Authority may be used -

- (a) for the purposes of proceedings to which Title Two Part V Chapter 7 of the TGEU applies;
- (b) for other judicial and administrative proceedings directly related to proceedings referred to under point (a);
- (c) for preventing an immediate and serious threat to public security; or
- (d) for any other purpose, but only with the prior consent of the requested State, if it made the communication, unless the Central Authority has obtained the consent of the data subject.

(6) This article also applies to personal data not communicated but obtained otherwise under Chapter 7 of the TGEU.

(7) This article does not apply to personal data obtained by the Central Authority under this Order and that originated from Gibraltar.

(8) The references to “personal data” in this Order have the same meaning as in section 2 of the Data Protection Act 2004.

Progress of requests.

18.(1) This article implements Article 190 of the TGEU.

(2) The Central Authority must promptly inform the requesting State of-

- (a) the action taken on a request;
- (b) the outcome of a request;
- (c) a decision to refuse, postpone or impose conditions in whole or in part in relation to a request; or
- (d) any circumstances which make the execution of a request impossible, or likely to significantly delay the execution of the request;
- (e) in the event of measures taken under Articles 164 to 168, any legal provisions which may lead to a lifting or setting aside of any orders made by the court;
- (f) any factual or legal development by reason of which any action under this Order is no longer justified.

Costs.

19.(1) This article implements Article 193 of the TGEU.

(2) The ordinary costs of executing a request must be borne by the requested State.

(3) Where costs of a substantial or extraordinary nature are necessary to execute the request, the parties must consult each other in advance-

- (a) to agree the conditions upon which the request is to be executed; and
- (b) as to the manner in which the costs will be borne.

Damages.

20.(1) This Article implements Article 194 of the TGEU.

(2) Where proceedings for damages arising from an act or omission in relation to cooperation under this Order have been commenced by a person, the requested State and the requesting State must consider consulting each other, where appropriate, to determine how to apportion any damages due.

(3) Where the Government is the subject of any proceedings referred to in paragraph (2), it must endeavour to inform a Member State of the proceedings, in case that State may have an interest.

Dated: 3rd July 2026.

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

EXPLANATORY MEMORANDUM

This Order implements Articles 162 to 168, 176 to 178, 183 to 185, 187, and 189 to 194 of the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, in respect of criminal investigations and criminal proceedings.

