

# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5108 GIBRALTAR Thursday 16th November 2023

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B. 25/23

## BILL

FOR

**AN ACT** to amend the Limitation Act and the Proceeds of Crime Act 2015 and for connected purposes.

**ENACTED** by the Legislature of Gibraltar.

### **Title.**

1. This Act may be cited as the Limitation Periods (Amendment) Act 2023.

### **Commencement.**

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

### **Amendment of the Limitation Act.**

3.(1) The Limitation Act is amended in accordance with this section.

(2) After section 27, insert -

**“Actions for recovery of property obtained through unlawful conduct etc.**

27A.(1) None of the time limits given in the preceding provisions of this Act apply to any proceedings under Chapter 2 of Part V of the Proceeds of Crime Act 2015 (civil recovery of proceeds of unlawful conduct).

(2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be brought after the expiration of the period of 20 years from the date on which the Attorney General’s cause of action accrued.

(3) Proceedings under that Chapter are brought when—

(a) a claim form is issued, or

(b) an application is made for a property freezing order; or

- (c) an application is made for an interim receiving order,  
whichever is the earliest.
- (4) The Attorney General's cause of action accrues in respect of any recoverable property—
- (a) in the case of proceedings for a recovery order in respect of property obtained through unlawful conduct, when the property is so obtained;
  - (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained through unlawful conduct which it represents is so obtained.
- (5) Subsection (4) is subject to section 70B(2) of the Proceeds of Crime Act 2015 (which provides that in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).
- (6) If—
- (a) a person would (but for the preceding provisions of this Act) have a cause of action in respect of the conversion of a chattel; and
  - (b) proceedings are started under that Chapter for a recovery order in respect of the chattel,
- section 11(2) of this Act does not prevent his asserting on an application under section 104 of that Act that the property belongs to him, or the court making a declaration in his favour under that section.
- (7) If the court makes such a declaration, his title to the chattel is to be treated as not having been extinguished by section 11(2) of this Act.
- (8) Expressions used in this section and Part V of that Act have the same meaning in this section as in that Part.

**Actions for recovery of property for purposes of an external order.**

- 27B.(1) None of the time limits given in the preceding provisions of this Act apply to any proceedings under Chapter 2 of Part 3 of the Proceeds of Crime Act 2015 (External Requests and Orders) Order 2019 (giving effect in Gibraltar to external orders by means of civil recovery).

- (2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be brought after the expiration of the period of 20 years from the date on which the Attorney General's cause of action accrued.
- (3) Proceedings under that Chapter are brought when –
  - (a) a claim form is issued; or
  - (b) an application is made for a property freezing order; or
  - (c) an application is made for an interim receiving order,whichever is the earliest.
- (4) The Attorney General's cause of action accrues in respect of any recoverable property –
  - (a) in the case of proceedings for a recovery order in respect of property obtained, or believed to have been obtained, as a result of or in connection with criminal conduct, when the property is so obtained;
  - (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained, or believed to have been obtained, as a result of or in connection with criminal conduct which it represents is so obtained.
- (5) If-
  - (a) a person would (but for the preceding provisions of this Act) have a cause of action in respect of the conversion of a chattel; and
  - (b) proceedings are started under that Chapter for a recovery order in respect of the chattel;
  - (c) section 11(2) of this Act does not prevent his asserting on an application under article 102 of that Order that the property belongs to him, or the court making a declaration in his favour under that article.
- (6) If the court makes such a declaration, his title to the chattel is to be treated as not having been extinguished by section 11(2) of this Act.
- (7) In this section –
  - (a) “criminal conduct” is to be construed in accordance with section 184D(7) of the Proceeds of Crime Act 2015;

- (b) expressions used in this section which are also used in Part 3 of the Proceeds of Crime Act 2015 (External Requests and Orders) Order 2019 have the same meaning in this section as in that Part.”.

**Transitional provision.**

4. The amendments made by section 3 –

- (a) apply to causes of action which accrued before, as well as to causes of action which accrue after, the commencement of this Act, but
- (b) do not apply to causes of action barred by section 4 of the Limitation Act before the commencement of this Act.

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

5. In section 70B(2) of the Proceeds of Crime Act 2015, for “Chapter 1” substitute “Chapter 2”.

### **EXPLANATORY MEMORANDUM**

This Bill amends the Limitation Act to provide for a limitation period within which proceedings for a recovery order under Part V of the Proceeds of Crime Act 2015 must be brought. Proceedings must be brought within 20 years of the original property being obtained through unlawful conduct.

The Bill also provides for a limitation period of 20 years in respect of actions for recovery of property for the purposes of an external order under Chapter 2 of Part 3 of the Proceeds of Crime (External Requests and Orders) Order 2019.

The Bill makes transitional provision to make it clear that the increased limitation period applies to causes of action which accrue before and after the commencement of that section, but that it will not apply to causes of action barred by section 4 of the Limitation Act before the commencement of the Act.

The Bill corrects a typographical error in the Proceeds of Crime Act 2015.

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