



# GUIDANCE NOTE 33

## Private Trust Companies

### What is a Private Trust Company (a “PTC”)?

A Private Trust Company is a company that is set up for the purpose of undertaking Connected Trust Business from or within Gibraltar. A Company can now voluntarily register as a PTC at the office of the Registrar of Companies (Companies House Gibraltar).

### What is Connected Trust Business?

Connected Trust Business means the administration of a Trust solely for the benefit of the Settlor and/or for those persons who are known as Designated Individuals and also for those persons connected by family ties to the Designated Individual.

### Connected Individuals

1. For the purpose of this Act, the following persons shall be considered to be a Connected Individual in relation to a Designated Individual–

(a) his/her spouse or civil partner; and

(b) the children and remoter issue of the Designated Individual and his/her spouse or civil partner.

2. For any relationships listed in paragraph 1 that may be established by blood that same relationship may also be established by adoption.

### The law governing PTCs

The law governing Gibraltar PTCs is the Private Trust Companies Act 2015, however these companies must also comply with the provisions of the Companies Act 2014.

### Use of words “Private Trust Company” in the name of a PTC (Section 10)

A PTC may use the words “Private Trust Company” or the letters “PTC” in the name by which the company is registered under the Companies Act; however it is not compulsory that they do so.

Where a PTC seeks to Change its Name it shall apply to the Registrar.

### **Application for Registration as a PTC- Procedure (Section 5)**

A PTC may be registered in one of two ways:

1. An existing company Registered in Gibraltar may apply at any time to also be Registered as a PTC;
2. A new company that applies for Incorporation may also simultaneously submit an application to be registered as a PTC.

A company that is desirous of operating as a PTC may apply for registration by submitting to the Registrar the following documents: (Section 5(1))

1. An application form for Registration as a Private Trust Company;
2. A copy of its Memorandum and Articles of Association (Amended where applicable);
3. A Declaration of Compliance from the Registered Administrator;
4. In the case of an existing company the Resolution passed for registration as a PTC; and
5. The Prescribed Fee - £100.00.

Where the Registrar is satisfied that all the requirements of this Act in respect of the Registration of a PTC have been complied with it shall Register the PTC by entering its name on the register and shall issue a Certificate of Registration in respect of that PTC. (Section 5(2))

### **Annual Renewal**

A PTC shall apply to the Registrar annually to renew its registration as a PTC by submitting the following: (Section 5(3))

- A Declaration of Compliance from the Registered Administrator pursuant to section 9(5); and
- The Annual Registration Fee - £15.00

### **Qualifying Requirements of a Private Trust Company - (Section 8)**

A company shall not be registered as a PTC unless it is incorporated under the Companies Act as:

- (a) A private company limited by shares;
- (b) A private company limited by guarantee and not having a share capital;
- (c) A private company limited by guarantee and having a share capital;
- (d) A private unlimited company; or
- (e) Unless it has established a domicile in Gibraltar under Part XIII of the Companies Act and Part I of the Companies (Re-Domiciliation) Regulations 1996.

A company registered as a PTC shall ensure that at all times:

- (a) It has a Registered Administrator in appointment;
- (b) Its Registered Administrator holds a valid Class VII Licence or a valid Class VIII Licence and has its registered office in Gibraltar;
- (c) There is no Provision under its Memorandum or Articles of Association which may cause or allow the PTC to breach any provisions of the Act;
- (d) It does not conduct its operations in any manner inconsistent with the Act.

A Private Trust Company shall maintain at its registered office–

- (a) a single Designating Instrument in the form specified in Schedule 5 (or such other form as the Minister may by notice published in the Gazette prescribe from time to time) which identifies the individual who shall be the Designated Individual in relation to that Private Trust Company; and
- (b) the trust deed and/or other document containing or recording the trust and any deed instrument or document varying or supplementing the trust in respect of each trust for which it serves as trustee.

## SCHEDULE 5

### DESIGNATING INSTRUMENT

[INSERT COMPANY NAME]

I, [INSERT DIRECTOR NAME], hereby confirm that in relation to [INSERT COMPANY NAME], the Designated Individual pursuant to the Private Trust Companies Act 2015 shall be:

[INSERT NAME OF DESIGNATED INDIVIDUAL]. Signed:

DIRECTOR

A company registered as a PTC shall not:

- (a) Solicit Trust Business;
- (b) Carry on any business other than Connected Trust Business;
- (c) Carry on Connected Trust Business in respect of anyone other than the Designated Individual or Connected Individuals of the Designated Individual; or
- (d) Carry on any activity other than its Connected Trust Business or any activity incidental to its Connected Trust Business.

### **Registered Administrator (Section 9)**

No person other than a company holding a valid Class VII Licence or a Valid Class VIII Licence may act as a Registered Administrator of a Private Trust Company.

Under the Private Trust Companies Act 2015 there is a statutory obligation for a Registered Administrator to notify the Registrar within five working days of the following:

- (i) Changes to its Registered Office;
- (ii) Its proposed retirement or resignation as Registered Administrator; or
- (iii) The revocation or surrender of its Class VII or Class VIII licence or any variation to its licence, which it considers material.

## **Revocation, de-registration and restoration of a PTC (Section 6)**

The Registrar may give 1 months' notice in writing to revoke a PTC's registration if either the PTC fails to renew its registration or if the PTC is found to be in contravention of the provisions of the Act.

A person who is aggrieved by any decision made by the Registrar can make an application to restore the company to the Registrar by submitting the following documents:

- An affidavit stating the applicant's interest in the matter and a statement of facts on which the application is based;
- A Declaration of Compliance signed by the Registered Administrator; and
- The Prescribed Fee - £200.00.

Where an application to restore a company to the Register has been made in his discretion, the Registrar may refuse to consider the application and require that the person by whom the application was made apply to the Court for an order to restore the company.

A Private Trust Company may de-register as such by submitting to the Registrar the following documents:

- Written notice in the prescribed form requesting de-registration signed by the Registered Administrator;
- The PTC's Certificate of Registration; and
- The Filing Fee - £15.00.

### **Guidance only**

This Circular is intended for general guidance only. Companies House Gibraltar does not assume legal responsibility for the accuracy of any particular statement. In the case of a specific problem, we recommend that you seek professional advice

### **Registry Contact Details:**

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