

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,662 of 19th June, 2008

B. 12/08

IMMIGRATION CONTROL (AMENDMENT) ACT 2008

ARRANGEMENT OF SECTIONS

Sections.

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**THIRD SUPPLEMENT TO THE GIBRALTAR
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BILL

FOR

AN ACT to transpose into the law of Gibraltar Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, and to otherwise amend and change the name of the Immigration Control Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Immigration Control (Amendment) Act 2008 and comes into operation on the day appointed by the Government by notice in the Gazette.

Amendment of the Immigration Control Act.

2.(1) The Immigration Control Act is amended in accordance with this section.

(2) For section 1 substitute—

“Short Title.

1. This Act may be cited as the Immigration, Asylum, Refugee and Persons Seeking International Protection Act.”

(3) Insert part headings as follows–

(a) before section 1, insert–

**“PART I
GENERAL”;**

(b) before section 12, insert–

**“PART II
GIBRALTAR IMMIGRATION LAW”;**

(c) before section 56, insert–

**“PART V
HOTELS AND LODGING HOUSES”;**

(d) before section 58, insert–

**“PART VII
ARRESTS, DETENTION, REMOVAL AND OFFENCES”;** and

(e) before section 67, insert–

**“PART VII
RULES AND RULES OF COURT”.**

(4) In section 2(1)–

(a) after the definition of “certificate”, insert–

“ “EEA State” has the meaning given in section 55A;

“EEA national” has the meaning given in section 55A;”;

(b) after the definition of “entry permit”, insert–

“ “Gibraltarian” has the meaning given in the Gibraltarian Status Act;”;

- (c) in the definition of “permit of residence” delete “or as the case may be, 50D”; and
 - (d) after the definition of “valid”, insert–
 - ““visa requiring national” means a person who requires a visa to enter Gibraltar.”.
- (5) For–
- (a) section 3 substitute–
 - “Application: EEA Nationals and their family members.**
 - 3. The provisions of sections 6, 7(2), 12(1), 14(1) and (2), 15 to 38, 52, 53 and 64 shall not apply to any person to whom, for the time being, sections 55A to 55X apply.”; and
 - (b) the heading to section 3A substitute–
 - “Application: Persons enjoying temporary protection.”.**
- (6) In section 5–
- (a) before “For the purposes of carrying out”, insert “(1)”; and
 - (b) after paragraph (j) insert–
 - “ (2) In respect of a person to whom section 55J, 55L, 55M or 55N applies subsection (1)(f) is subject to section 55T(8).”.
- (7) In section 23, for “section 50K” substitute “section 55V”.
- (8) Sections 39 to 50K inclusive are repealed.
- (9) For section 55 substitute–

**“ PART III
ASYLUM, REFUGEES AND PERSONS SEEKING
INTERNATIONAL PROTECTION**

Asylum, Refugees and Persons seeking International Protection.

55.(1)The Government may make regulations under this section for the purpose of establishing rules and standards concerning asylum, refugees and persons seeking international protection.

(2) Without prejudice to the generality of subsection (1), regulations may be made under this section to give effect in the law of Gibraltar, including by amending primary legislation, to the law of the European Union or to any provision of a relevant international agreement or convention which applies to Gibraltar relating to asylum, refugees or persons seeking international protection and any amendment to primary legislation made by such regulations shall be deemed to be an amendment made pursuant to this section.”.

(10) After section 55, insert new Part IV as set out in Schedule 1 to this Act.

(11) For section 65 substitute–

“Offences by EEA nationals and family members.

65. A person to whom Part IV applies is guilty of an offence and liable on summary conviction to a fine at level 2 on the standard scale if he–

- (a) has, pursuant to an EEA decision, received a notice under section 55U requiring him to leave Gibraltar by a specified date; and
- (b) has not left Gibraltar by the date specified in the notice and has either–
 - (i) not appealed against the EEA decision; or

- (ii) his appeal against the EEA decision has been rejected and he has failed to comply with a further requirement to leave Gibraltar.”.

(12) In section 66(1)(h) for “under this Act”, substitute “under Part II of this Act”.

(13) For section 67(c) substitute–

“(c) amending, varying, adding to or deleting from the provisions of Schedule 1;”.

(14) After section 67(d) insert–

“(d) to give effect in the law of Gibraltar to the law of the European Union or to any provision of a relevant international agreement or convention which applies to Gibraltar relating to any of the matters contained in or dealt with under this Act and this power shall include the power for the provision to come into operation although the law, agreement or convention, as the case may be, has not yet come into operation.”.

(15) After section 67 insert–

“Rules of Court.

68. The Chief Justice may make such rules of court as are necessary or expedient for the purpose of appeals under this Act.”.

(16) After Schedule 2 of the Immigration Control Act, insert new Schedule 3 as set out in Schedule 2 to this Act.

SCHEDULE 1

NEW PART IV

Section 2(10)

After section 55, insert the following–

**“PART IV
EEA NATIONALS AND FAMILY MEMBERS, SWISS POSTED
WORKERS”**

Interpretation.

55A.(1) In this Part, unless the context otherwise requires–

“the Authority” means the Head of the Civil Status and Registration Office and includes such persons to whom he delegates his authority under this Act;

“Directive 2004/38” means Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC;

“EC-Switzerland Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;

“EEA decision” means a decision under this Part that concerns a person’s–

- (a) entitlement to enter Gibraltar;
- (b) entitlement to reside in Gibraltar;
- (c) entitlement to be issued with, have renewed, or not have revoked, a registration certificate, residence card, document

certifying permanent residence, or permanent residence card;
or

(d) requirement to leave Gibraltar or removal from Gibraltar;

“EEA family permit” means an entry clearance issued to a non-EEA national family member of an EEA national;

“EEA national” means a national of an EEA State;

“EEA State” means–

(a) a State, which is a Contracting Party to the European Economic Area Agreement signed in Oporto on 2 May 1992 as amended or adjusted from time to time (for the purposes of clarity a list of these States is set out in Schedule 1);

(b) Switzerland;

“extended family member” has the meaning given in section 55G;

“family member” has the meaning given in section 55F;

“family member who has retained the right of residence” means a person who meets the criteria in section 55H;

“military service” means service in the armed forces of an EEA state;

“non-EEA national” means a person who is not a national of an EEA state;

“non-EEA national family member” means a family member who is a non-EEA national;

“permanent residence card” means a card issued under section 55Q(2)(b);

“Regulation 1612/68” means Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community;

“relevant EEA national”, in relation to an extended family member, has the meaning given in section 55G(6);

“residence card” means a card issued under section 55P;

“spouse” does not include a party to a marriage of convenience.

(2) Any term used, but not defined, shall be construed in accordance with the provisions of the relevant European Union measure as interpreted by the European Court of Justice.

Continuity of Residence.

55B.(1) This section applies for the purpose of calculating periods of continuous residence in Gibraltar under sections 55D (worker or self-employed person who has ceased economic activity) and 55N (permanent residence).

(2) Continuity of residence is not affected by–

- (a) periods of absence from Gibraltar which do not exceed six months in total in any year;
- (b) periods of absence from Gibraltar on military service; or
- (c) any one absence from Gibraltar not exceeding twelve months for an important reason such as pregnancy, childbirth, serious illness, study or vocational training or an overseas posting.

(3) But continuity of residence is broken if a person is removed from Gibraltar under section 55R(2).

Definition of worker, job seeker, self employed person, self-sufficient person and student.

55C.(1) In this Part, "worker" means a worker within the meaning of Article 39 of the Treaty establishing the European Community and includes a job seeker.

(2) In this Part, “job seeker” means a person who enters Gibraltar in order to seek employment and can provide evidence that he is seeking employment and has a genuine chance of being engaged.

(3) In this Part, "self-employed person" means a person who establishes himself in order to pursue activity as a self-employed person in accordance with Article 43 of the Treaty establishing the European Community.

(4) In this Part, "self-sufficient person" means a person who has—

- (a) sufficient resources not to become a burden on the social assistance system of Gibraltar during his period of residence; and
- (b) comprehensive sickness insurance cover in Gibraltar.

(5) In this Part, "student" means a person who—

- (a) is enrolled at a private or public establishment, included on the Department for Education and Skills' Register of Education and Training Providers or financed from public funds, for the principal purpose of following a course of study, including vocational training;
- (b) has comprehensive sickness insurance cover in Gibraltar; and
- (c) assures the Authority by means of a declaration, or by such equivalent means as the person may choose, that he has sufficient resources not to become a burden on the social assistance system of Gibraltar during his period of residence.

(6) For the purposes of subsection (4) (self-sufficient persons), where family members of the person concerned reside in Gibraltar and their right to reside is dependent upon their being family members of that person—

- (a) the requirement for that person to have sufficient resources not to become a burden on the social assistance system of Gibraltar during his period of residence shall only be satisfied if his resources and those of the family members are sufficient to avoid him and the family members becoming such a burden;
- (b) the requirement for that person to have comprehensive sickness insurance cover in respect of his period of residence in Gibraltar shall only be satisfied if he and his family members have such cover.

(7) For the purposes of subsection (5) (students), where family members of the person concerned reside in Gibraltar and their right to reside is dependent upon their being family members of that person, the requirement for that person to assure the Authority that he has sufficient resources not to become a burden on the social assistance system of Gibraltar during his period of residence shall only be satisfied if he assures the Authority that his resources and those of the family members are sufficient to avoid him and the family members becoming such a burden.

(8) For the purposes of subsections (4) and (5) and subsections (6) and (7), the resources of the person concerned and, where applicable, any family members, are to be regarded as sufficient if they exceed the maximum level of resources which a Gibraltar and his family members may possess in order to be eligible for social assistance in Gibraltar.

Definition of worker or self-employed person who has ceased economic activity.

55D.(1) In this Part, "worker or self-employed person who has ceased economic activity" means an EEA national who satisfies a condition in subsection (2), (3), (4) or (5).

- (2) A person satisfies the condition in this subsection if he—
- (a) terminates his activity as a worker or self-employed person and—
 - (i) on the date on which he terminates his activity, he has reached the age at which state old age pension is payable in Gibraltar; or
 - (ii) in the case of a worker, ceases working to take early retirement;
 - (b) pursued his activity as a worker or self-employed person in Gibraltar for at least twelve months prior to the termination; and
 - (c) resided in Gibraltar continuously for more than three years prior to the termination.

- (3) A person satisfies the condition in this subsection if—

- (a) he terminates his activity in Gibraltar as a worker or self-employed person as a result of a permanent incapacity to work; and
- (b) either—
 - (i) he resided in Gibraltar continuously for more than two years prior to the termination; or
 - (ii) the incapacity is the result of an accident at work or an occupational disease that entitles him to a pension payable in full or in part by a body in Gibraltar.

(4) A person satisfies the condition in this subsection if—

- (a) he is active as a worker or self-employed person in an EEA State but retains his place of residence in Gibraltar, to which he returns as a rule at least once a week; and
- (b) prior to becoming so active in that EEA State, he had been continuously resident and continuously active as a worker or self-employed person in Gibraltar for at least three years.

(5) A person who satisfies the provisions of subsection (4)(a) but not the provisions of subsection (4)(b) shall, for the purposes of subsections (2) and (3), be treated as being active and resident in Gibraltar during any period in which he is working or self-employed in the EEA State.

(6) The conditions in subsections (2) and (3) as to length of residence and activity as a worker or self-employed person shall not apply in relation to a person whose spouse is Gibraltarian or has lost his Gibraltarian status by marriage to that worker or self-employed person.

(7) For the purposes of this section, the following shall be treated as periods of activity as a worker or self-employed person, as the case may be—

- (a) periods of inactivity for reasons not of the person's own making;
- (b) periods of inactivity due to illness or accident; and

- (c) in the case of a worker, periods of involuntary unemployment duly recorded by the employment office of the Ministry of Employment.

Definition of Qualified person.

55E.(1) In this Part, “qualified person” means a person who is an EEA national and is in Gibraltar as–

- (a) a job seeker;
- (b) a worker;
- (c) a self-employed person;
- (d) a self-sufficient person; or
- (e) a student.

(2) An EEA national shall not cease to be treated as a worker or self-employed person for the purpose of subsection (1) if–

- (a) he is temporarily unable to work or engage in self-employment as the result of an illness or accident;
- (b) he is registered with the Department of Employment for the purposes of seeking employment and–
 - (i) he was employed in Gibraltar for 12 months before becoming unemployed;
 - (ii) he was employed in Gibraltar for under 12 months before becoming unemployed and he has been unemployed for no more than 6 months; or
 - (iii) he can provide evidence that he is seeking employment in Gibraltar and has a genuine chance of being engaged;
- (c) he is involuntarily unemployed and has embarked on vocational training; or

- (d) he has voluntarily ceased working and embarked on vocational training that is related to his previous employment.

Definition of Family Member.

55F.(1) Subject to subsection (2), for the purposes of this Part the following persons shall be treated as the family members of another person—

- (a) his spouse;
- (b) direct descendants of his, or his spouse, who are—
 - (i) under 21; or
 - (ii) dependent on him or his spouse;
- (c) dependent direct relatives in his ascending line or that of his spouse; or
- (d) a person who is treated as the family member of that other person under subsection (3).

(2) A person shall not be treated as the family member of a student residing in Gibraltar after the period of three months beginning on the date on which the student is admitted to Gibraltar unless—

- (a) the person is the spouse or dependent child of the student or of his spouse; or
- (b) the student is also a worker, self employed or self-sufficient person who has a right of residence in Gibraltar under section 55M.

(3) Subject to subsection (4), a person who is an extended family member and has been issued with an EEA family permit, a registration certificate or a residence card shall be treated as the family member of the relevant EEA national for as long as—

- (a) he continues to satisfy a condition in section 55G(2), (3), (4) or (5) in relation to that EEA national; and

- (b) the permit, certificate or card has not ceased to be valid or been revoked.

(4) Where the relevant EEA national is a student, the extended family member shall only be treated as the family member of that national under subsection (3) if–

- (a) the EEA family permit was issued or its issue authorised under section 55K(2);
- (b) the registration certificate was issued under section 55O(4); or
- (c) the residence card was issued under section 55P(5).

Definition of Extended Family Member.

55G.(1) In this Part "extended family member" means a person who–

- (a) is not a family member of an EEA national under section 55F(1)(a), (b) or (c); and
- (b) satisfies a condition set out in subsection (2), (3), (4) or (5).

(2) A person satisfies the condition in this subsection if the person is a relative of an EEA national or his spouse and–

- (a) the person is residing in an EEA State in which the EEA national also resides and is dependent upon the EEA national or is a member of his household;
- (b) the person satisfied the condition in paragraph (a) and is accompanying the EEA national to Gibraltar or wishes to join him there; or
- (c) the person satisfied the condition in paragraph (a), has joined the EEA national in Gibraltar and continues to be dependent upon him or to be a member of his household.

(3) A person satisfies the condition in this subsection if the person is a relative of an EEA national or his spouse and, on serious health grounds, strictly requires the personal care of the EEA national or his spouse.

(4) A person satisfies the condition in this subsection if the person is a relative of an EEA national and, in the country from which they have come, is dependent upon the EEA national or is a member of his household and, on entry to Gibraltar will continue to be dependent upon the EEA national or a member of his household.

(5) A person satisfies the condition in this subsection if the person is the partner of an EEA national and proves that he is in a durable relationship with the EEA national.

(6) In this Part "relevant EEA national" means, in relation to an extended family member—

- (a) the EEA national who is or whose spouse is the relative of the extended family member for the purpose of subsection (2), (3) or (4); or
- (b) the EEA national who is the partner of the extended family member for the purpose of subsection (5).

Definition of “family member who has retained the right of residence”.

55H.(1) In this Part, “family member who has retained the right of residence” means, subject to subsection (7), a person who satisfies a condition in subsection (2), (3), (4) or (5).

(2) A person satisfies the condition of this subsection if—

- (a) he was a family member of a qualified person when the qualified person died;
- (b) he resided in Gibraltar in accordance with this Part for at least twelve months immediately before the death of that qualified person; and
- (c) he satisfies the condition in subsection (6).

(3) A person satisfies the condition in this subsection if—

- (a) he is the direct descendant of—
 - (i) a qualified person who has died;

- (ii) an EEA national who was a qualified person, but has ceased to reside in Gibraltar; or
 - (iii) the person who was the spouse of the qualified person mentioned in paragraph (i) when he died or is the spouse of the EEA national mentioned in subparagraph (ii); and
 - (b) he was attending an educational course within the meaning of Article 12 of Regulation 1612/68 in Gibraltar immediately before the qualified person died or the EEA national ceased to reside in Gibraltar and continues to attend such a course.
- (4) A person satisfies the condition in this subsection if the person is the parent with actual custody of a child who satisfies the condition in subsection (3).
- (5) A person satisfies the condition in this subsection if–
- (a) he ceased to be a family member of a qualified person on the termination of his marriage with that EEA national;
 - (b) he was residing in Gibraltar in accordance with this Part at the date of the termination;
 - (c) he satisfies the condition in subsection (6); and
 - (d) either–
 - (i) prior to the initiation of proceedings for the termination of the marriage the marriage had lasted for at least three years and the parties to the marriage had resided in Gibraltar for at least one year during its duration;
 - (ii) the former spouse of the qualified person has custody of a child of that EEA national;
 - (iii) the former spouse of the qualified person has the right of access to a child under the age of 18 of that

qualified person and a court has ordered that such access shall take place in Gibraltar; or

- (iv) the continued right of residence in Gibraltar of the person is warranted by particularly difficult circumstances, such as he, or another family member, having been a victim of domestic violence while the marriage was subsisting.

(6) The condition in this subsection is that the person—

- (a) is not an EEA national but would, if he were an EEA national, be a worker, a self-employed person or a self-sufficient person; or
- (b) is the family member of a person who falls within paragraph (a).

(7) A person—

- (a) who has a right to reside permanently in Gibraltar under section 55N shall not become a family member who has retained the right of residence on the death or departure from Gibraltar of the EEA national or the termination of the marriage;
- (b) who is a family member who has retained the right of residence shall cease to have that status on acquiring a right of permanent residence under section 55N.

Family members of Gibraltarians.

55I.(1) If the conditions in subsection (2) are satisfied, this Part applies to a person who is the family member of a Gibraltarian as if the Gibraltarian were an EEA national.

(2) The conditions are that—

- (a) the Gibraltarian is residing in an EEA State as a worker or self-employed person before returning to Gibraltar;
- (b) if the family member of the Gibraltarian is his spouse, the parties are living together in the EEA State or had entered into the marriage and were living together in that State before the Gibraltarian returned to Gibraltar.

(3) Where this Part applies to the family member of a Gibraltarian the Gibraltarian shall be treated as holding a valid passport issued by an EEA State for the purpose of the application of section 55L to that family member.

EEA Rights – Entry and Residence.

Right of Entry to Gibraltar.

55J.(1) An EEA national shall be allowed to enter Gibraltar if he produces on arrival a valid passport or identity card issued by an EEA state.

(2) A non-EEA national shall be allowed to enter Gibraltar if he is the family member of an EEA national, a family member who has retained the right of residence or a person with a permanent right of residence under section 55N if he produces on arrival—

- (a) a valid passport; and
- (b) an EEA family permit, a residence card or a permanent residence card.

(3) An entry or exit stamp shall not be placed in the passport of a person allowed to enter Gibraltar under this section if—

- (a) he is an EEA national; or

- (b) he is a non-EEA national who produces a residence card or permanent residence card.

(4) Before a person is refused entry to Gibraltar on the ground that he does not produce on arrival a document mentioned in subsection (1) or (2), that person shall be given every reasonable opportunity to—

- (a) obtain the document or have it brought to him within a reasonable period of time; or
- (b) to prove by other means that he is—
 - (i) an EEA national;
 - (ii) a family member of an EEA national with a right to accompany that national or join him in Gibraltar;
 - (iii) a family member who has retained the right of residence or a person with a permanent right of residence under section 55N; or
 - (iv) an extended family member, who has not been treated as a family member under section 55F, of an EEA national who satisfies the criteria set out in section 55K(2) (recommendations for issue of an EEA family permit).

(5) The Authority—

- (a) shall facilitate the person's entry to Gibraltar if one of the criteria in subsection (4)(b)(i) to (iii) applies;
- (b) may facilitate the person's entry to Gibraltar if the criteria in subsection (4)(b)(iv) applies.

(6) This section is subject to section 55R(1) (exclusion and removal).

Issue and authorisation to issue EEA Family Permits.

55K.(1) The Authority shall, subject to subsection (5), issue or authorise the issue of an EEA family permit to a person who applies for it if the person is a family member of an EEA national and—

- (a) the EEA national—
 - (i) is residing in Gibraltar in accordance with this Part;
 - (ii) will be travelling to Gibraltar within six months of the date of the application and will be an EEA national residing in Gibraltar in accordance with this Part on arrival; or
 - (iii) will be travelling to Gibraltar within six months of the date of the application and is otherwise entitled to enter Gibraltar under this Part; and
- (b) the family member will be accompanying the EEA national to Gibraltar or joining him there.

(2) The Authority may, subject to subsection (5), issue or authorise the issue of an EEA family permit to an extended family member of an EEA national who applies for one if—

- (a) the relevant EEA national satisfies a condition in subsection (1)(a);
- (b) the extended family member wishes to accompany the relevant EEA national to Gibraltar or to join him there; and
- (c) in all the circumstances, it appears appropriate to issue the EEA family permit.

(3) Before issuing, or authorising the issue of, an EEA family permit under subsection (2) the Authority shall undertake an extensive examination of the personal circumstances of the applicant and, if he refuses to issue, or to authorise the issue of, an EEA permit, shall give reasons in writing justifying the refusal unless this is contrary to the interests of national security.

(4) A decision to issue, authorise the issue, refuse to issue or refuse to authorise the issue of an EEA family permit under this section shall be made as soon as possible and no fee shall be charged for the decision.

(5) The Authority shall not issue or authorise the issue of an EEA family permit under this section if the applicant or the EEA national concerned falls to be excluded from Gibraltar on grounds of public policy, public security or public health in accordance with section 55T.

Entitlement to reside in Gibraltar for three months.

55L.(1) The following persons are entitled to reside in Gibraltar for a period not exceeding three months from the date of entry into Gibraltar—

- (a) an EEA national who holds a valid passport or identity card issued by an EEA state;
- (b) a non-EEA national who—
 - (i) is a family member of an EEA national residing in Gibraltar under paragraph (a); and
 - (ii) holds a valid passport.

(2) But—

- (a) subsection (1) is subject to section 55R(2)(b) (removal on grounds of public policy etc); and
- (b) an EEA national or his family member who becomes an unreasonable burden on the social assistance system of Gibraltar shall cease to have the right to reside under this section.

Extended right of Residence in Gibraltar.

55M.(1) An EEA national is entitled to reside in Gibraltar for as long as he is a qualified person.

(2) A family member of a qualified person residing in Gibraltar under subsection (1) or an EEA national with a permanent right of residence under

section 55N is entitled to reside in Gibraltar for so long as he remains the family member of the qualified person or EEA national.

(3) A family member who has retained the right of residence is entitled to reside in Gibraltar for so long as he remains a family member who has retained the right of residence.

(4) A right to reside under this section is in addition to any right of residence which a person may have under section 55L (initial right of residence) or section 55N (permanent residence).

(5) This section is subject to section 55R(2)(b) (removal on grounds of public policy etc).

Right of Permanent Residence.

55N.(1) The following persons are entitled to reside permanently in Gibraltar—

- (a) an EEA national who has resided in Gibraltar in accordance with this Part for a continuous period of five years;
- (b) a non-EEA family member of an EEA national, who has resided in Gibraltar with the EEA national in accordance with this Part for a continuous period of five years;
- (c) a person who—
 - (i) has resided in Gibraltar in accordance with this Part for a continuous period of five years; and
 - (ii) was, at the end of that period, a family member who has retained the right of residence.

(2) The following persons are entitled to reside permanently in Gibraltar notwithstanding that they have not resided in Gibraltar for a continuous period of five years—

- (a) a worker or self-employed person who has ceased economic activity;

- (b) the family members of a worker or self-employed person who has ceased economic activity;
- (c) a person who was the family member of a worker or self-employed person where—
 - (i) the worker or self-employed person has died;
 - (ii) the family member resided with him immediately before his death; and
 - (iii) the worker or self-employed person had resided continuously in Gibraltar for at least the two years immediately before his death or his death was the result of an accident at work or an occupational disease or the surviving spouse lost his Gibraltar status following marriage to the worker or self-employed person.

(3) Once acquired, permanent residence in Gibraltar may be lost only through absence from Gibraltar for a period exceeding two consecutive years.

(4) This section is subject to section 55R(2)(b).

Residence Documentation.

Registration Certificates for EEA Nationals.

55O.(1) An EEA national residing in Gibraltar,—

- (a) may register with the Authority at any time after entry into Gibraltar;
- (b) shall register with the Authority if he has resided in Gibraltar for over three months;
- (c) shall, after registration, notify the Authority in writing of any change of residential address including notifying the Authority if he ceases to reside in Gibraltar;

- (d) who fails to comply with a requirement under paragraph (b) or (c) is liable to a civil fine of £100.

(2) The Authority shall issue a registration certificate to an EEA national immediately on—

- (a) written application on such form as the Authority may require, or as is prescribed by rules, giving their name and residential address in Gibraltar; and
- (b) production of a valid identity card or passport issued by an EEA State; and in respect of—
 - (i) a worker, confirmation of engagement from an employer or a certificate of employment;
 - (ii) a self-employed person, evidence that he is a self-employed person within the definition in section 55C(3);
 - (iii) a self-sufficient person, evidence that he satisfies the definition of a self-sufficient person in section 55C(4);
 - (iv) a student, evidence that he satisfies the definition of a student in section 55C(5);
 - (v) an EEA national who is the family member of an EEA national residing in Gibraltar under section 55L or 55M or of an EEA national with a permanent right of residence under section 55N, evidence that the applicant is such a family member; or
 - (vi) an EEA national who is a family member who has retained the right of residence, evidence that the applicant is a family member who has retained the right of residence.

(3) The Authority may issue a registration certificate to an extended family member not falling within section 55F(3) who is an EEA national on application made in accordance with subsection (2)(a) if—

- (a) the relevant EEA national in relation to the extended family member is residing in Gibraltar under section 55L or section 55M or an EEA national with a permanent right of residence under section 55N; and
 - (b) in all the circumstances it appears appropriate to issue the registration certificate.
- (4) Where an application is received under subsection (3) the Authority –
- (a) shall undertake an extensive examination of the personal circumstances of the applicant;
 - (b) may–
 - (i) in respect of an extended family member falling within section 55G(2)(a) or (4), require a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they are dependants or members of the household of the EEA national;
 - (ii) in respect of an extended family member falling within section 55G(3), require proof of the health grounds which require the care of the EEA national or his spouse;
 - (iii) in respect of an extended family member falling within section 55G(5), require proof of the existence of a durable relationship; and
 - (c) shall, if he refuses the application, give reasons justifying the refusal unless this is contrary to the interests of the security of Gibraltar.
- (5) A registration certificate issued under this section shall–
- (a) state the name and address of the person registering and the date of registration; and
 - (b) be issued free of charge.

(6) Subsections (1) to (5) are subject to section 55S(1).

(7) The holding of a registration certificate issued under this section shall not be a pre-condition for the exercise of an enforceable Community right.

Residence Cards for Non-EEA Family Members.

55P(1) A non-EEA national family member—

- (a) may apply to the Authority for a residence card at any time after entry into Gibraltar;
- (b) shall apply to the Authority for a residence card if he has resided in Gibraltar for over three months;
- (c) shall, after application, notify the Authority in writing of any change of residential address including notifying the Authority if he ceases to reside in Gibraltar;
- (d) who fails to comply with a requirement under paragraph (b) or (c) is liable to a civil fine of £100.

(2) The Authority—

- (a) may issue a residence card to a non-EEA family member of an EEA national, if the EEA national is entitled to reside in Gibraltar under section 55L, on production of the documents listed in subsection (3);
- (b) shall, on production of the documents listed in subsection (3), issue a residence card to a non-EEA national—
 - (i) who is a family member of a qualified person;
 - (ii) who is the family member of an EEA national with permanent residence under section 55N; or
 - (iii) who is a family member who has retained the right of residence in Gibraltar.

(3) The documents listed in this subsection are a valid passport, a written application on such form as the Authority may require or as is prescribed by rules and, in respect of–

- (a) a family member of an EEA national residing in Gibraltar under section 55L–
 - (i) evidence that he is such a family member; and
 - (ii) the registration certificate of the EEA national or other evidence that the EEA national is residing in Gibraltar under section 55L;
- (b) a family member of a qualified person or of an EEA national with permanent residence under section 55N–
 - (i) evidence that he is such a family member; and
 - (ii) the registration certificate of the EEA national or other evidence that the EEA national is a qualified person or a national with permanent residence under section 55N; or
- (c) a family member who has retained the right of residence, evidence that he is a family member who has retained the right of residence in Gibraltar.

(4) The Authority may issue a residence card to an extended family member not falling within section 55F(3) who is not an EEA national on application if–

- (a) the relevant EEA national in relation to the extended family member is–
 - (i) a qualified person or has a right of permanent residence in Gibraltar under section 55N; or
 - (ii) is residing in Gibraltar under section 55L;
- (b) in all the circumstances it appears appropriate to issue the residence card; and

(c) the application is made on such form as the Authority may require or as is prescribed by rules.

(5) Where an application is received under subsection (4) the Authority—

(a) shall undertake an extensive examination of the personal circumstances of the applicant;

(b) may require the evidence set out in section 55O(4)(b); and

(c) shall, if he refuses the application, give reasons justifying the refusal unless this is contrary to the interests of the security of Gibraltar.

(6) On receipt of an application under subsection (1) and the documents that are required to accompany the application the Authority shall immediately issue the applicant with a certificate of application for a residence card and the residence card shall be issued no later than six months after the date on which the application and documents are received.

(7) A residence card issued under this section—

(a) shall state the period during which it is valid;

(b) may take the form of a stamp in the applicant's passport;

(c) shall be entitled "Residence card of a family member of an EEA national"; and

(d) shall be issued free of charge.

(8) A residence card issued under this section shall be valid for—

(a) five years from the date of issue; or

(b) in the case of a residence card issued to the family member or extended family member of a qualified person, the envisaged period of residence in Gibraltar of the qualified person if this is less than five years; or

(c) if issued to the family member or extended family member of an EEA national who only has a right to reside in Gibraltar

under section 55L, for a period no longer than three months,
and

absences from Gibraltar for the reasons set out in section 55B(2) shall not affect the validity of the residence card.

(9) Subsections (1) to (8) are subject to section 55S (refusal to issue or renew permit and revocation of permits).

(10) The holding of a registration certificate issued under this section shall not be a pre-condition for the exercise of an enforceable Community right.

Documents Certifying Permanent Residence and Permanent Residence Cards.

55Q.(1) An—

- (a) EEA national entitled to reside permanently in Gibraltar under section 55N may apply in writing to the Authority for a document certifying permanent residence in Gibraltar;
- (b) non-EEA national entitled to reside permanently in Gibraltar under section 55N shall apply in writing to the Authority for a permanent residence card and -
 - (i) the application shall be made before the expiry of the applicant's residence card; and
 - (ii) failure to apply for a permanent residence card will make the applicant liable to a civil fine of £100.

(2) The Authority shall—

- (a) issue an EEA national entitled to reside permanently in Gibraltar under section 55N with a document certifying permanent residence in Gibraltar as soon as possible after receipt of an application and submission that evidence the EEA national has such a right;
- (b) issue a non-EEA national who is entitled to reside permanently in Gibraltar under section 55N with a permanent residence card as soon as possible after receipt of an application and

submission of evidence that the applicant has such a right and, at latest, within six months of the application.

(3) Subject to subsection (4)(a) a permanent residence card shall be valid for ten years from the date of issue and shall be automatically renewable on application.

(4) A document certifying permanent residence and a permanent residence card shall—

- (a) cease to be valid if the holder ceases to have a right of permanent residence under section 55N;
- (b) be issued free of charge.

(5) This section is subject to section 55S.

(6) The holding of a document certifying permanent residence or a permanent residence card issued under this section shall not be a precondition for the exercise of an enforceable Community right.

Restrictions on the right of entry and residence.

Exclusion and removal from Gibraltar.

55R.(1) Notwithstanding section 55J (right of entry)—

- (a) a person may be refused entry to Gibraltar if his exclusion is justified on the grounds of public policy, public security or public health in accordance with section 55T;
- (b) a person may be refused entry to Gibraltar as a non-EEA family member of an EEA national if, at the time of his arrival—
 - (i) he is not accompanying the EEA national or joining him in Gibraltar; or
 - (ii) the EEA national does not have a right to reside in Gibraltar under this Act.

(2) Subject to subsection (3) a person who has been admitted to, or acquired a right to reside in, Gibraltar may be required to leave Gibraltar by the Authority if–

- (a) he does not have, or ceases to have, the right to reside in Gibraltar under this Act; or
- (b) he would otherwise be entitled to reside in Gibraltar, but the Authority decided that his removal is justified on the grounds of public policy, public security or public health in accordance with section 55T.

(3) A person shall not be required to leave Gibraltar under subsection (2)–

- (a) as the automatic consequence of having recourse to the social assistance system of Gibraltar; or
- (b) before the end of one month from the date of sending of the notification in section 55U, except –
 - (i) in duly substantiated cases of urgency; or
 - (ii) where the person is detained in Gibraltar pursuant to the sentence or order of a court.

(4) A decision taken under subsection (1) to refuse a person entry or under subsection (2) to require a person to leave Gibraltar must be notified to the person in accordance with section 55U (notification of EEA decisions).

(5) A person to whom subsection (2) applies and who does not leave Gibraltar within the time notified to him under section 55U(2) may, subject to section 55V (right of appeal), be treated as an unauthorised person under section 59, or where the court has recommended deportation under section 183 of the Criminal Procedure Act, as a person to whom section 59(2) applies save that–

- (a) removal may not be ordered, or effected, on the grounds of public policy, public security or public health except in accordance with section 55T;
- (b) removal may not be ordered, or effected–

- (i) unless the person has been notified in accordance with section 55U; or
 - (ii) before the day after the date which the person has been notified under section 55U that he must leave Gibraltar;
- (c) where a removal order is made under section 59, but the person concerned does not leave Gibraltar and has not been removed from Gibraltar within two years from the date of the making of the removal order, it shall not be enforced unless—
- (i) the Authority has considered whether there has been any material change in the circumstances since the order or recommendation was made; and
 - (ii) the individual concerned is, at the date of enforcement, a threat to public policy or public security.

Refusal to issue or renew and revocation of residence documentation.

55S.(1) The Authority may refuse to issue, revoke or refuse to renew a registration certificate, a residence card, a document certifying permanent residence or a permanent residence card if the refusal or revocation is justified on grounds of public policy, public security or public health.

(2) The Authority may revoke a registration certificate or a residence card, or refuse to renew a residence card if the holder of the certificate or card has ceased to have a right to reside in Gibraltar under this Part.

(3) The Authority may revoke a document certifying permanent residence or a permanent residence card, or refuse to renew a residence card if the holder of the certificate or card has ceased to have a right to reside permanently in Gibraltar under section 55N.

(4) The Authority may, at the time of a person's arrival in Gibraltar, revoke that person's—

- (a) residence card if he is not at that time the family member of a qualified person or of an EEA national who has a right of permanent residence under section 55N, a family member who

has retained the right of residence or a person with a right of permanent residence under section 55N; or

- (b) permanent residence card if he is not at that time a person with a right of permanent residence under section 55N.

(5) The Authority may, at the time of a person's arrival in Gibraltar, revoke that person's EEA family permit if—

- (a) the revocation is justified on grounds of public policy, public security or public health; or

- (b) the person—

- (i) is not at that time the family member of an EEA national with the right to enter Gibraltar under this Part;
 - (ii) is not accompanying that EEA national or joining him in Gibraltar; or
 - (iii) where entry is for the purpose of residing in Gibraltar, the EEA national does not have a right to reside in Gibraltar under this Part.

(6) Any action taken under this section on grounds of public policy, public security or public health shall be in accordance with section 55T.

Decisions taken on the grounds of public policy, public security or public health.

55T.(1) In this section “relevant decision” means an EEA decision taken on the grounds of public policy, public security or public health.

(2) A relevant decision may not be taken to serve economic ends.

(3) A relevant decision may not be taken in respect of a person with a permanent right of residence under section 55N except on serious grounds of public policy or public security.

(4) A relevant decision may not be taken except on imperative grounds of public security in respect of an EEA national who—

- (a) has resided in Gibraltar for a continuous period of at least ten years prior to the relevant decision; or
- (b) is under the age of 18, unless the relevant decision is necessary in his best interests, as provided for in the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 1989.

(5) Where a relevant decision is taken on grounds of public policy or public security it shall, in addition to complying with the preceding subsections of this section, be taken in accordance with the following principles—

- (a) the decision shall comply with the principle of proportionality;
- (b) the decision shall be based exclusively on the personal conduct of the person concerned;
- (c) the personal conduct of the person concerned shall represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society;
- (d) matters isolated from the particulars of the case or which relate to considerations of general prevention cannot justify the decision;
- (e) a person's previous criminal convictions cannot in themselves justify the decision.

(6) In making a relevant decision on the grounds of public policy or public security in relation to a person who is resident in Gibraltar account shall be taken of considerations such as the age, state of health, family and economic situation of the person, the person's length of residence in Gibraltar, the person's social and cultural integration into Gibraltar and the extent of the person's links with his country of origin.

(7) In the case of a relevant decision taken on grounds of public health—

- (a) a disease that does not have epidemic potential as defined by the relevant instruments of the World Health Organisation, or is not a notifiable disease to which section 174 of the Public

Health Act applies or tuberculosis of a nature to which section 171 of the Public Health Act applies, shall not constitute grounds for the decision; and

- (b) if the person concerned is in Gibraltar, diseases occurring after the three month period beginning on the date on which he arrived in Gibraltar shall not constitute grounds for the decision.

(8) In order to ascertain whether the person concerned represents–

- (a) a danger to public policy or public security, the Authority may request, or require the Commissioner of Police to request, the EEA state of which the person is a national, and if need be, other EEA States to provide information concerning any police record which the person concerned may have, but such request may only be made where essential and only be made at the time–

- (i) that the registration certificate is to be issued, or within three months of the date of the person's arrival in Gibraltar; or
- (ii) that the residence card is issued; or

- (b) a danger to public health, section 5(1)(f) shall apply save that–

- (i) section 5(1)(f) shall not be applied as a matter of routine and may only be applied where there are serious grounds that it is necessary for the purposes of ascertaining whether the person is suffering from a disease referred to in subsection (7);
- (ii) section 5(1)(f) only applies within three months of the person's arrival in Gibraltar;
- (iii) the person shall not be charged a fee for the medical examination; and
- (iv) the person shall not be required to submit to medical treatment.

Notification of EEA decisions.

55U.(1) This section shall apply in respect of any EEA decision which has the effect of–

- (a) refusing a person entry to Gibraltar;
- (b) refusing a person permission to reside in Gibraltar;
- (c) refusing to issue a person with a registration certificate, residence card, document certifying permanent residence or residence card; or
- (d) removing, deporting or otherwise requiring a person to leave Gibraltar.

(2) The person in respect of whom the EEA decision is taken shall be informed in writing of–

- (a) the decision;
- (b) the full reasons for the decision (unless this is contrary to the interests of the security of Gibraltar);
- (c) their right to appeal to the Supreme Court against the decision;
- (d) the time limits for lodging an appeal to the Supreme Court; and
- (e) where applicable, the date by which they are required to leave Gibraltar.

(3) A date notified under subsection (2)(e) will be invalid unless compliant with section 55R(3)(b).

(4) A notice under subsection (2)–

- (a) shall be written in such a way that the person concerned is able to understand its contents and the implications for him;
- (b) shall be accompanied with an application for leave to appeal form in the form set out in Schedule 3; and

- (d) shall be served on the person concerned by personal service or other means as may be provided by the Government in Rules made under this section.

Appeals.

Appeals.

55V.(1) A person who is aggrieved by an EEA decision may appeal to the Supreme Court against that decision.

(2) An appeal under this section shall be brought as soon as reasonably practicable and in any event not later than 28 days from the date on which notice of the EEA decision was given in accordance with section 55U.

(3) No appeal under this section shall be brought unless the leave of the Supreme Court has been obtained and, for the purpose of obtaining such leave, the form set out in Schedule 3 may be used.

(4) The appellant shall be entitled to appear and be represented at the hearing of an appeal or application for leave to appeal save—

- (a) that a person who appeals against a refusal to allow him to enter Gibraltar shall not be entitled to enter Gibraltar for the purpose of the appeal unless he possesses a document listed in subsection (5);
- (b) if he is a person who has been removed from or left Gibraltar in accordance with subsection (7) and his appearance may cause serious troubles to public policy or public security.

(5) A person may not, while in Gibraltar, appeal under subsection (1) against a decision to refuse him entry to Gibraltar unless—

- (a) he holds an EEA family permit;
- (b) he holds a valid registration certificate, a valid residence card, a valid document certifying permanent residence or a valid permanent residence card or can otherwise prove that he is resident in Gibraltar.

(6) Subject to subsection (7), if a person in Gibraltar appeals against an EEA decision to remove him from Gibraltar or require him to leave Gibraltar, while the appeal or application for leave to appeal is pending—

- (a) he may not be removed from Gibraltar pursuant to any removal order given under section 59, or required to leave Gibraltar under section 55R(2); and
- (b) he may not be placed in a vessel or aircraft under section 59(5).

(7) Subsection (6) shall not apply if—

- (a) the decision to remove has been taken on imperative grounds of public security; or
- (b) the removal order under section 59 or the requirement to leave under section 55R was made subsequent to a decision by the Supreme Court to refuse an appeal or leave to appeal against the decision to remove, or requirement to leave.

(8) The Supreme Court determining an appeal of the nature referred to in subsection (1) may—

- (a) dismiss the appeal; or
- (b) quash the EEA decision and remit it to the Authority with a direction to reconsider the EEA decision.

(9) Where an appeal against a requirement to leave Gibraltar is dismissed by the Supreme Court section 55R(5) shall apply.

(10) A decision of the Supreme Court under this section shall be final as to any question of fact, but an appeal shall lie to the Court of Appeal on any question of law.

(11) If by reason of any default on the part of the person who has instituted an appeal in accordance with this section, the appeal has not been determined by the Supreme Court within three months of the date of the notice of appeal or application by which the appeal was instituted—

- (a) the Authority may apply to the Supreme Court, by a summons served on the person who has instituted the appeal in accordance with this section, to show cause why the appeal should not be dismissed for want of prosecution; and
- (b) upon the making of an application under paragraph (a) the Supreme Court may dismiss the appeal or make such other order as it considers just.

Special Cases - Swiss Posted Workers & Central and European Accession State Nationals.

Swiss Posted Workers.

55W.(1) For the purposes of this section, “Swiss posted worker” means a person who is not an EEA national and—

- (a) is the employee of a Swiss company or Swiss national providing services in Gibraltar under Article 5 of the EC-Switzerland Agreement;
- (b) is integrated into the labour market of Switzerland or the EEA; and
- (c) is posted by the Swiss company or Swiss national to Gibraltar for the purpose of providing those services in Gibraltar.

(2) A Swiss posted worker shall be allowed to enter Gibraltar if he produces on arrival—

- (a) a valid identity card or passport; and
- (b) if he is a visa requiring national, a visa to enter Gibraltar.

(3) The Authority shall recommend the issue of a visa to a Swiss posted worker who produces evidence from a Swiss national or Swiss company that he is, or will be, a Swiss posted worker for a specified period of time.

(4) A Swiss posted worker—

- (a) shall not require a residence permit or other authorisation to reside in Gibraltar for a period not exceeding 90 days;

- (b) shall require a residence permit under Part II of this Act in order to remain in Gibraltar for a period exceeding 90 days.

(5) On application, the Authority shall issue written confirmation that the person is a Swiss posted worker on production of–

- (a) the valid passport or identity card and visa, if any, with which the person entered Gibraltar; and
- (b) evidence from the Swiss company or Swiss national by whom the person is employed–
 - (i) that the company is a Swiss company, or that the national is Swiss; and
 - (ii) that the Swiss posted worker is employed by it, or him.

(6) The Authority may issue a residence permit to a Swiss posted worker under section 18 on written application and production of–

- (a) the valid passport or identity card and visa with which they entered Gibraltar; and
- (b) evidence from the Swiss company or Swiss national by whom they are employed–
 - (i) that the company is a Swiss company, or that the national is Swiss;
 - (ii) that the Swiss posted worker is employed by it or him; and
 - (iii) as to the period of time for which the Swiss posted worker's posting in Gibraltar is required.

(7) This section is subject to section 55R (exclusion and removal etc).

Nationals of Central and Eastern European States.

55X.(1) This section applies in relation to–

- (a) nationals of a relevant accession State;
- (b) nationals of Bulgaria and nationals of Romania.

(2) This section applies only during the transitional period, and, for the purposes of this section, “the transitional period” is–

- (a) in respect of nationals of a relevant accession State–
 - (i) 1 May 2004 to 30 April 2009; or
 - (ii) such other date as the Government may provide in rules made under this section;
- (b) in respect of nationals of Bulgaria or Romania–
 - (i) 1 January 2007 to 31 December 2011; or
 - (ii) such other date as the Government may provide in rules made under this section.

(3) For the purpose of this section–

- (a) “legal employment” means employment under a work permit issued under the Employment Regulations 2004; and
- (b) “relevant accession State” means the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, the Slovak Republic, or the Republic of Slovenia.

(4) During the transitional period a person to whom this section applies shall not be a “worker” or a “job seeker” (as defined in section 55C) unless–

- (a) he has been in legal employment in Gibraltar for an uninterrupted period of at least 12 months; and
- (b) that period of legal employment commenced before or during the transitional period.

(5) For the purpose of subsection (4)(a) a person shall be treated as having been in employment in Gibraltar without interruption for a period of 12 months if–

- (a) he was in legal employment in Gibraltar at the beginning and end of that period; and
- (b) any intervening periods in which he was not working in Gibraltar do not, in total, exceed 30 days.

(6) During the transitional period, any period of legal employment in Gibraltar shall not apply for the purposes of subsection (4)(a) if the person voluntarily left the labour market of Gibraltar.

(7) Notwithstanding subsection (4) and subject to section 55R (exclusion and removal), family members of a person to whom this section applies who is in legal employment in Gibraltar are entitled to reside in Gibraltar during the person's legal residence in Gibraltar.

(8) During the transitional period a national of a relevant accession State, Bulgaria or Romania who is not a qualified person (as defined in section 55E) and his family members–

- (a) may be issued with a residence permit under section 18; and
- (b) shall not be issued with a registration certificate or residence card under this Part.”.

SCHEDULE 2

NEW SCHEDULE 3

Section 2

After Schedule 2, insert the following—

“SCHEDULE 3

Sections 55U, 55V

Notice of Application for Leave to Appeal to the Supreme Court

Appeal Against an EEA Decision

Immigration, Asylum, Refugees and Persons Seeking International Protection
Act Part IV

Complete this form if you wish to appeal against—

- a decision to refuse permission to enter Gibraltar,
- a decision to refuse permission to stay in Gibraltar,
- a decision regarding a residence document or a registration document,
- a decision regarding a document certifying permanent residence or a permanent residence card,
- a decision requiring you to leave Gibraltar.

You must appeal within 28 days from the date of service of the decision on you. The Supreme Court must receive your appeal form within this time.

You have a right to appeal to the Supreme Court using this form if you are—

- a national of a State which is a member of the European Economic Area or Switzerland,
- a family member of a national of a State which is a member of the European Economic Area or Switzerland,

- otherwise have a right to appeal to the Supreme Court under Part IV of the Immigration, Asylum, Refugee and Persons Seeking International Protection Act.

About you	
Your full name	
Your address <i>You must inform the Supreme Court if you change your address.</i>	
Your daytime telephone number	
Your nationality <i>If you have more than one nationality please give all nationalities.</i>	
If you are appealing as the family member of an EEA national, please give – <ul style="list-style-type: none"> • the name and nationality of that EEA national, and • their relationship to you 	

Do you have a lawyer?	Yes	No
<i>If you have a lawyer, please give the information requested below.</i>		
Name of your lawyer		
Address of your lawyer		
Telephone number of your lawyer		

About the EEA Decision

Please give full details of the decision you are appealing against.

Grounds of Appeal

In this section you must set out the grounds for your appeal and the reasons you consider the decision was wrong.

Please give as much detail as possible – use additional paper if you need to.

Late appeal and application for extension of time

Your appeal must be received within 28 days of service.

If you know that your appeal is late you must apply for an extension of time to appeal.

Why is your appeal late?

(please give your reasons and attach any evidence to this form).

Declaration by appellant	
<i>If you are the appellant and are completing the form yourself, you must complete this section.</i>	
I, the appellant, believe that the facts stated in this Notice are true.	
Appellant's signature	
Appellant's full name (in block capitals)	
Date of signature	

Declaration by lawyer	
<i>If you have a lawyer, he or she must complete this section.</i>	
The facts stated in this Notice are true to the best of my knowledge and belief.	
Lawyer's signature	
Lawyer's name (in block capitals) and address	
Date of signature	

Please send or deliver this form to–

**The Supreme Court
277 Main Street
Gibraltar".**

EXPLANATORY MEMORANDUM

This Bill amends the Immigration Control Act in order to transpose Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

The Bill also gives statutory effect to the case of *R v Immigration Appeal Tribunal and Surinder Singh ex parte Secretary of State for the Home Department*.

In addition it gives Government the power to make regulations for the purpose of establishing rules and standards concerning asylum, refugees and persons seeking international protection and, for this reason, changes the name of the Immigration Control Act to the immigration, Asylum, Refugees and Persons seeking International Protection Act.

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