

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,678 of 2nd October, 2008

B. 20/08

BILL

FOR

AN ACT to amend the Immigration, Asylum and Refugee Act, and for connected purposes.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Immigration, Asylum and Refugee (Amendment) Act 2008 and shall be deemed to have come into operation on the day on which the Asylum Regulations 2008 came into operation save that section 2(4) comes into operation on the day of publication.

Amendments to Immigration, Asylum and Refugee Act.

2.(1) The Immigration, Asylum and Refugee Act is amended in accordance with this section.

(2) In section 2(1)–

(a) at the end of the definition of “permit of residence” insert–

“(for the purpose of clarity, it does not include a residence permit);” and

(b) after the definition of “Principal Immigration Officer” insert the following new definition–

““residence permit” means a residence permit issued under the Asylum Regulations 2008;”.

(3) After section 3A of the Act insert–

“Application: asylum applicants, refugees, persons with subsidiary protection and dependant family members.

3B.(1) The provisions of sections 6, 12(1), 23, 52, 53, 59, 62 and 64 do not apply to a person who is an asylum applicant or the dependant family member of an asylum applicant.

(2) The provisions of sections 6, 12(1), 52, 53 and 59 do not apply to a person with refugee status or subsidiary protection status or the dependant family member of such a person.

(3) The provisions of section 66(1)(f) do not apply to the persons listed in subsection (4) to the extent that the passport, permit, certificate or other document or visa or endorsement was used or possessed by the person for the purpose of leaving his country of origin in connection with making a claim for asylum or otherwise in connection with making a claim for asylum.

(4) The persons listed in this subsection are–

(a) an asylum applicant or the dependant family member of an asylum applicant;

(b) a person with refugee status or subsidiary protection status or a dependant family member of such a person.

(5) In this section–

“asylum applicant” means an “applicant” as defined in Asylum Regulations 2008;

“dependant family member” has the meaning given in the Asylum Regulations 2008;

“refugee status” has the meaning given in the Asylum Regulations 2008; and

“subsidiary protection status” has the meaning given in the Asylum Regulations 2008.”.

(4) In section 20–

(a) for subsection (1) substitute–

“20.(1) The Authority may at any time cancel any entry permit or permit of residence.”;

(b) delete subsection (2); and

(c) after subsection (3) insert–

“(4) For the purpose of this section “the Authority” means the Head of the Civil Status and Registration Office and includes such persons to whom he delegates his authority under this section.”.

(5) In section 21–

(a) in subsection (1) after “to issue a permit”, delete “or by the cancellation of a permit by the Principal Immigration Officer”;

(b) in subsection (1) after “such refusal”, delete “or cancellation”;

(c) in subsection (2) after “issue a permit”, delete “or to cancel a permit”.

(6) In sections 21 and 22, each time it occurs, for “a permit” substitute “an entry permit or permit of residence”.

(7) For section 23(2) substitute–

“(2) In this section “decision” means any grant, renewal or refusal of an entry permit or a permit of residence.”.

(8) In section 63(5) after “extended to Gibraltar”, insert “or the Asylum Regulations 2008”.

EXPLANATORY MEMORANDUM

This Bill amends the Immigration, Asylum and Refugee Act in consequence of Asylum Regulations 2008 which transpose into the law of Gibraltar Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum applicants and Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted into the law of Gibraltar.

The Immigration, Asylum and Refugee Act is amended in order to—

- clarify the difference between a permit of residence issued by the Principal Immigration Officer and a residence permit issued by the Authority (the Head of the Civil Status and Registration Office) under the Asylum Regulations 2008;
- disapply certain provisions of the Immigration, Asylum and Refugee Act to asylum applicants, refugees, persons with subsidiary protection status and their dependant family members as defined in the Asylum Regulations 2008.

In addition the Bill also amends the Act to provide that entry permits and permits of residence may be cancelled by the Civil Status and Registration Office rather than by the Principal Immigration Officer or Governor.

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